United Nations A/73/562

General Assembly

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Seventy-third session
Agenda item 34
Prevention of armed conflict

Letter dated 12 November 2018 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General

On instructions from my Government, I have the honour to write to you, in response to your letter dated 1 November 2018, in which you invited Member States to contribute to the funding of the so-called "International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011", or "IIIM".

First and foremost, I would like to clarify that the content of my letter and its attachment cannot, in any sense, be taken as an acceptance or recognition of the so-called "IIIM" or of any of its illegitimate mandates, activities and acts.

Frankly and transparently, my Government continues to be shocked by this suspicious tendency in the United Nations to promote the so-called "IIIM" and by the desperate attempt to raise funds for it, while the United Nations itself has refrained from responding to any of the well-established legal arguments that we have raised in many official correspondence, all of which have proved beyond any doubt that the establishment of this "IIIM" constituted a flagrant violation of the provisions of the Charter of the United Nations.

I have attached to this letter a fact sheet, entitled "Wrongful Acts Can't Be Promoted or Legalized" (see annex). This fact sheet contains the legal arguments raised by the Syrian Government on many occasions, which have strongly and repeatedly revealed the fact that the non-consensual resolution 71/248 adopted by the General Assembly to establish this "IIIM" constituted a breach of the Charter and an aggression by the Assembly on the mandate of the Security Council, in which it exceeded its powers and mandates under the Charter.

My Government, proceeding from a keen awareness of the role and position of the Secretary-General, firmly believes that the time has come for the United Nations to decide, irreversibly, whether it really wants to play the role of a fair and balanced facilitator in the political process owned and led only by Syrians, without harmful and dangerous interference!

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On behalf of my Government, I invite you to re-examine and to reconsider the status of this illegal mechanism and the consequences of its illegal activities and acts on the work and credibility of the United Nations, as well as on its role in facilitating the political process in the Syrian Arab Republic. . also call upon all Member States to distance themselves from this illegal mechanism and to refrain from any connection or cooperation with it, including the contribution to its funding.

I should be grateful if you would have the present letter and its annex issued as a document of the General Assembly, under agenda item 34.

(*Signed*) Bashar **Ja'afari**
Ambassador
Permanent Representative

Annex to the letter dated 12 November 2018 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General

"Wrongful Acts Can't Be Promoted or Legalized"

The so-called "IIIM" is a terrible example of political and financial polarization and violation of the provisions of the Charter of the United Nations

12 November 2018

- In November 2016, the Permanent Missions of Liechtenstein and Qatar exploited the frenetic and provocative atmosphere in the United Nations after the Syrian Government and its allies launched the military operation that ended with the liberation of Aleppo from the terrorist armed groups, foremost among them the designated terrorist entity of "Al-Nusrah Front" (QDe.137). It is well known that the highest-ranking official in Qatar's ruling family has admitted on several occasions that Qatar opposes the United Nations designation of "Al-Nusrah Front" as a terrorist entity. The Qatari Minister for Foreign Affairs stated frankly after the liberation of Aleppo that his Government would not give up and would continue to assist and arm "rebels" in Syria and that his Government was confident of the ability of those terrorists to regain control of Aleppo! The former Prime Minister and Foreign Minister of Qatar, Hamad Bin Jassim, announced in an interview with the British Broadcasting Corporation, in November 2017, that "$137 billion had been squandered by some governments in attempts to overthrow the Assad government since the beginning of the war." The Government of Qatar has provided enormous financial funding to the terrorist organization "Al-Nusrah Front", either directly or under the guise of raising funds through Qatari charities and associations linked to the ruling family, or through the payment of hundreds of millions of dollars of ransom to "Al-Nusrah Front" for the release of foreign and Arab abductees and hostages.

- When the Qatari Government felt at that time that the positions of "Al-Nusrah Front" and the other terrorist groups associated with it had come under serious threat in the city of Aleppo, it decided to resort to the General Assembly. In this context and due to ambiguous financial and banking relations between the two countries, Qatar used the Liechtenstein Permanent Mission's help in the autumn of 2016 to prepare a draft resolution to be submitted to the Assembly in order to establish the so-called "IIIM" and exert more political pressure and blackmail against the Syrian Government and its allies.

- Needless to say, the Permanent Missions of Liechtenstein and Qatar have not adhered to the principles of the Charter of the United Nations or the existing rules of procedure within the framework of the United Nations, and they did not make any kind of communication or consultation with the concerned Member State, namely, the Syrian Arab Republic. On the contrary, they went through an exclusionary process in which political and financial polarization was strongly evident.

- Although the Syrian Permanent Mission has resorted to United Nations rules of procedure to clarify the illegality of this suspicious "initiative" and to explain the serious political backgrounds behind it, the United Nations has succumbed to the will of the sponsors of the draft resolution and set a plenary session of the General Assembly for presenting and taking action on the draft resolution.

- However, on 21 December 2016, the General Assembly adopted the non-consensual resolution 71/248 by a slim majority, which led to the establishment of the so-called "IIIM".

How did the General Assembly violate the Charter and encroach on the mandates of the Security Council?

- The non-consensual General Assembly resolution 71/248, which led to the establishment of this "IIIM", constituted a breach of Article 12 of the Charter, which reads, "While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests". It was, and still is, well known that the Council is still fully engaged in its responsibilities and mandates in the Syrian case, and the Assembly therefore has no mandate to take any action in respect of this case.

- The General Assembly does not fundamentally have the power or the mandate to establish such a mechanism; under the provisions and principles of the Charter, that prerogative belongs solely to the Security Council. The resolution therefore sets a dangerous legal precedent: it violates the Charter and endorses a practice that deviates from the working methods of the United Nations. Since its foundation, the Assembly had never established such a mechanism in any of its resolutions. The Assembly can, in some cases, request the Secretary-General to negotiate on specific issues with the relevant Member State. However, the prior consent of the Member State remains a key element in such situations. The resolution was clearly adopted without the consent of the Syrian Arab Republic and despite of its strong objections.

- Moreover, Articles 10, 11, 12 and 22 of the Charter unequivocally define the mandates of the General Assembly. Based on these articles, the Assembly does not have the authority or the mandate to establish any investigative or judicial organ or such "mechanism", since that mandate was vested exclusively in the Security Council, in accordance with the provisions and principles of the Charter. Consequently, Assembly resolution 71/248 was a grave legal precedent in the adoption of an abnormal practice within the framework of the United Nations.

- The so-called "IIIM" has been granted a wide range of powers under resolution 71/248, which is the prerogative of the Office of the General Prosecutor as the national judicial organ of each State. Originally, the Charter did not confer upon the General Assembly any mandate or jurisdiction relating to prosecutions, criminal investigations or the support of a criminal investigation. On this legal basis, the Assembly does not have the power to create an organ with powers that it does not already have, nor does it have the inherent authority to establish such a body. It is crucial to refer here to an alarming fact concerning the practices of the Chair of the so-called "IIIM", when she misused her first and subsequent reports to misinterpret Assembly resolution 71/248 in order to grant herself and her assistants broad powers and mandates that are not included in the non-consensual resolution itself.

- It is well known that the basic legal rule governing the provision of legal technical assistance by the United Nations to any Member State is the existence of a request by the concerned State. In the event of the establishment of this illegal mechanism, there was no request submitted by the Government of the Syrian Arab Republic for such assistance. On the contrary, the establishment of this "IIIM" was carried out through an exclusionary and non-transparent process

led by two permanent missions, which have already taken an unbalanced and dishonest attitude towards the situation in the Syrian Arab Republic, to the point of supporting and financing terrorism and tolerating its supporters. Based on the foregoing, the non-consensual General Assembly resolution 71/248 has breached the Charter, in particular Article 2.

- To further prove these legal arguments, it is imperative to look closely into the experience of the Security Council in the adoption of its resolution 2379 (2017), in which the Council mandated the Secretary-General to "establish an Investigative Team, headed by a Special Adviser, to support domestic efforts to hold ISIL (Da'esh) accountable by collecting, preserving, and storing evidence in Iraq of acts that may amount to war crimes". Relevant correspondence among the Secretary-General, the Council and the Government of Iraq illuminate that the Secretary-General was keen and obliged under the Charter to consult with the Iraqi Government to establish the standards and rules of the conduct of the investigation team prior to the adoption of a Council resolution by consensus.

  This is just an example that confirms, beyond any doubt, that double standards and selectivity were the only basis on which the so-called "IIIM" was established, in violation of the Charter and through an aggression by the General Assembly on the mandate of the Security Council.

- Regarding the letter of the Secretary-General dated 1 November 2018, in which he invited Member States to contribute to the funding of the so-called "IIIM", this letter does not comply with the Charter or the mandates of each body of the Organization. Moreover, this request from the Secretary-General was wrongfully based on another non-consensual resolution of the General Assembly, 72/191, entitled "Situation of human rights in the Syrian Arab Republic", on the basis of the Third Committee report at its seventy-second session. The Assembly, in operative paragraph 35 of that non-consensual resolution, "calls upon the Secretary-General to include the necessary funding for the Mechanism in his next budget proposal".

  Needless to say, and based on the well-established procedures in the framework of the main committees, this call should have been referred to the Fifth Committee to determine the programme budget implications for that resolution. Therefore, the process has not fulfilled the requirements of the Member States' consent regarding an important change to the nature of the funding of this "IIIM" to be included in the regular budget.

- The legal violations committed by the General Assembly when non-consensual resolution 71/248 was adopted have accumulated, which entail many consequences that make this mechanism primarily an illegal entity, which cannot be accepted or allowed to carry out any activity under the umbrella of the United Nations. These consequences could be summarized as following:

  (a) The so-called "IIIM" cannot be considered as a subsidiary body established by the General Assembly. Consequently, no decisions can be taken by the Secretary-General to appoint a Chair or Vice-Chair of this "International, Impartial and Independent Mechanism", and no "secretariat" can be allocated to it;

  (b) This "IIIM" cannot be granted any legal status;

  (c) The so-called "IIIM" cannot have the capacity to conclude agreements with Member States and other entities;

  (d) The United Nations may not accept voluntary contributions or budget allocations to support the establishment and functioning of such a mechanism;

(e) Based on all the above, any information or evidence collected, consolidated, preserved and analysed by this "IIIM" will be ineligible for future criminal proceedings, bearing in mind that its establishment was a highly politicized act without any legal dimension.

Political considerations related to the situation in the Syrian Arab Republic

- The situation in the Syrian Arab Republic is now at a delicate stage. The political process under the auspices of the United Nations is moving forward, but with caution and fragility, because of the insistence of some Governments that have supported chaos and terrorism in Syria, on interfering in Syrian internal affairs and placing more pressure on the Syrian Government and its allies in their war on global terrorism embodied by "Daesh", "Al-Qaida", "Al-Nusrah Front" and other terrorist groups affiliated with them.

- It became a fact that the Governments of Member States that are sponsoring, financing and promoting this illegal "IIIM" and seeking to provide it with fabricated evidence and false witnesses are the same Governments that are obstructing the political solution in Syria and that have been supporting terrorism in it from day one. Moreover, some of these countries' banking institutions are carrying out money-laundering operations, originating from Qatari gas and oil deals and being used to finance terrorism and arms deals for terrorist armed groups.

- It is essential for the United Nations to preserve its neutrality and credibility as a facilitator of the political process in Syria and not to be subject to political and financial pressure and polarization practices of the Governments of some Member States, under the pretext of achieving justice in Syria. These Governments openly declare today that they will hinder the return of Syrian refugees and displaced persons to their homes and will prevent funding for reconstruction in Syria until their own political agendas are achieved in Syria.

- The Government of the Syrian Arab Republic has the full capability, with its legal and judicial institutions, to achieve justice and accountability without external and destructive interference. Member States should be deeply aware of the grave legal and political implications of the tendentious attempts to promote this "IIIM". Otherwise, it would be a dangerous legal precedent that has manipulated international law and its principles and evoked serious controversial concepts such as the "global criminal jurisdiction", until it becomes a model that could be applied to other cases or countries.

To conclude

- The Syrian Arab Republic is fully confident of its legal and political position regarding the illegality of the so-called "IIIM" and the basis for its establishment. The Syrian Government strongly believes that neither the United Nations nor the mechanism and the Member States that support and promote it will be able to stand up to these legal arguments based on the Charter and international law. Therefore, the mechanism will remain an aberrant illegal organ, born dead and will remain dead.

United Nations A/73/563

General Assembly

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Seventy -third session
Agenda item 137

Programme planning

Report of the Sixth Committee

Rapporteur: Ms. Nadia Alexandra **Kalb** (Austria)

1. At its 3rd plenary meeting, on 21 September 2018, the General Assembly, on the recommendation of the General Committee, decided to include the item entitled "Programme planning" in its agenda and to allocate it to the Sixth Committee, the other Main Committees and the plenary of the Assembly to enhance discussion of evaluation, planning, budgeting and monitoring reports.

2. The Sixth Committee considered the item at its 35th meeting, on 13 November 2018.[1] The Committee was informed that no reports were allocated to it under the agenda item.

3. At the same meeting, the Sixth Committee concluded its consideration of the item without taking action.

[1] See A/C.6/73/SR.35.

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United Nations A/73/564

General Assembly

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14 November 2018
English
Original: Russian

Seventy-third session
Agenda item 29
Advancement of women

Letter dated 31 October 2018 from the Permanent Representative of the Russian Federation to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the text of the outcome document of the Second Eurasian Women's Forum, held from 19 to 21 September 2018 in Saint Petersburg, Russian Federation (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under agenda item 29.

(*Signed*) V. **Nebenzia**

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Annex to letter dated 31 October 2018 from the Permanent Representative of the Russian Federation to the United Nations addressed to the Secretary-General

[Original: English and Russian]

Outcome document of the Second Eurasian Women's Forum

Saint Petersburg, Russian Federation
19–21 September 2018

We, the participants of the Second Eurasian Women's Forum, held in Saint Petersburg on the seventieth anniversary of the adoption of the Universal Declaration of Human Rights by the UN General Assembly and the twenty-fifth anniversary of the adoption of the Vienna Declaration and Programme of Action at the Second World Conference on Human Rights;

Reaffirming the importance of the implementation of provisions of the Charter of the United Nations and the Convention on the Elimination of All Forms of Discrimination against Women by States, as well as the significance of the Universal Declaration of Human Rights, the Vienna Declaration and Programme of Action, the Beijing Declaration and Platform for Action, the Declaration on the Elimination of Violence against Women, and other international legal instruments in this regard;

Firmly determined to continue efforts to achieve equality between men and women as an integral part of human rights and fundamental freedoms in the interests of all mankind;

Calling for the creation of enabling environment for the full and equal participation of women in political, economic, social and cultural life, including through the adoption of appropriate national strategies for women;

Conscious of the fragility and vulnerability of the modern world due to political, economic and social instability, the growing threat of international terrorism, the effects of local and regional conflicts, global climate change, environmental pollution, epidemics and technological threats;

Alarmed by the growing number of acts of violence and terrorism triggered by the spread of the ideology of Nazism, neo-Nazism, racism, xenophobia and related intolerance, which affect women in various ways;

Convinced of the important role of women in the prevention and spread of armed conflicts and humanitarian emergencies, in finding effective and appropriate responses to contemporary challenges and threats;

Recognizing the unique contribution of women to the development of interreligious and interethnic dialogue and the establishment of a culture of peace as an essential prerequisite for preventing armed conflicts and establishing international cooperation for peace and development;

Confident of the need for women to more actively participate in public administration and elections at all levels, in public and political life, and to eliminate legal, administrative, cultural and economic obstacles in this regard;

Gladly acknowledging the doubling numbers in the representation of women in parliaments, welcoming the fact that today every fifth parliamentarian on the planet is a woman, while noting the desire to achieve parity between men and women parliamentarians by 2030;

Understanding the importance of ensuring equal opportunities for men and women to participate in promoting sustainable development, reducing poverty, and achieving the Sustainable Development Goals by 2030;

Emphasizing the importance of the widespread use of information technologies among women and supporting the work of the Eurasian Women's Community permanent information and communications Internet portal;

Recognizing that the more effective use of the potential of women's involvement in the economy contributes to its increased competitiveness, creation of additional opportunities for entrepreneurship, development of international business cooperation and social progress;

Reaffirming the importance of ensuring enabling environment for women to balance family responsibilities with work and the special role of women in bringing up children, protecting family values, and preserving a positive moral and ethical atmosphere in society;

Reaffirming the need for women to cooperate in strengthening public health, including in creating a healthy and safe environment, boosting motivation to live a healthy life, motivating employers to take care of workers' health, and encouraging women to actively participate in administrative decision-making on healthcare matters;

Calling for the utmost support of the charity and voluntary activities of women related to the promotion of sports and a healthy lifestyle, creation of favourable and enabling environment for women of all ages, and the development of active longevity programmes;

Declare that the Eurasian Women's Forum has proved to be an effective and high representation platform for international dialogue, which makes a significant contribution to the consolidation of the global women's community for the sake of building a stable and secure future;

Note the important role of women in the humanization of international relations and creation of space for free dialogue of nations that aim to ensure the harmonious development of mankind;

Firmly determined to provide women with equal and full access to economic resources, including land, credit, science and technology, professional training, information, communications and markets as a means of further improving the status of women, including by expanding their opportunities to enjoy benefits associated with equal access to such resources, in particular through international cooperation;

Welcome the efforts to implement projects and initiatives for the further involvement of women in economic and social activities, including, inter alia, the development of the new global social compact; support the active role of the women's community in the implementation of initiatives within such global and regional integration associations as the SCO, BRICS, APEC, the G20 as well as within the framework of the W20;

Support the greater involvement of women in diplomatic work around the world, an increase in the number of qualified, competent and responsible women leaders in global governance institutions; welcome the signing of the Declaration of Intent to Establish the Eurasian Association of Female Regional Leaders as part of the Second Eurasian Women's Forum;

Once again condemn and strongly oppose the imposition of sanctions against parliamentarians as inconsistent with international law and democratic values and undermining political cooperation and mutual trust;

Underscores the importance of the decisions of the Second Eurasian Women's Forum:

On the support for the economic and business activities of women and the development of women's entrepreneurship, including, inter alia, in social sphere, and an international women's business dialogue as a driver for export and import development;

On ensuring equal opportunities for men and women in the context of the development of high-tech industries, green economy, smart farming, digital economy, and the dissemination of best practices for the promotion of digital skills for women;

On the implementation of international projects to support women's leadership in cultural organizations as one of the important areas of international cooperation and promoting the full realization of the potential of women's entrepreneurship in the field of culture;

On the creation of an effective strategy for the development of charity and building international cooperation in the social sector, including on the basis of new technologies;

On facilitating the development and putting in place a mentoring institution for women that provides means for the exchange of knowledge and skills in the socioeconomic sphere;

On strengthening the role of women in preserving traditional family values, attitudes and moral and ethical atmosphere in society as well as the cooperation of international women's community in this regard;

On improving the quality of medical care as well as infrastructure, roads and transport services for women living in rural and remote areas and supporting cultural and educational initiatives addressing these women;

On the development of activities that aim to increase the scope and accessibility of medical and social care for older people as well as the development of a system to prevent premature aging;

On ensuring equal opportunities in employment and reducing the pay gap between men and women in professional activities, providing enabling environment for women to balance family responsibilities with work, through the provision of social benefits for women and supporting their competitiveness on the labour market;

On the intention to establish the Eurasian Association of Female Regional Leaders, which shall include women heads of regional and local governance, parliamentarians, representatives of executive authorities and non-profit organizations, leaders of charity projects, and leaders of international women's movements;

On the intention to run a global marathon of women's success stories on the Eurasian Women's Community permanent information and communication Internet portal;

On the elimination of all forms of violence against women and children as well as providing aid to countries in armed conflicts and natural disasters, where women and children are the most vulnerable and unprotected;

On joint actions of state and civilian institutions on countering terrorist organizations, international drug mafia, and organized crime;

On supporting women's efforts to adapt to climate change and mitigate its consequences by enhancing the participation of children and youth participation

in environmental, social and educational projects, including, inter alia, "Ecolyata" ("Young environmentalists");

Calls upon States and international organizations as well as international community:

To eliminate unjustified obstacles in women's career in public administration, diplomatic service and business;

To develop and promote special programmes to increase the economic activity of women and their digital and financial awareness and consider these issues as a matter of priority in the agendas of international organizations and associations;

To focus on legislative support for women's economic and social empowerment, improvement of the system of family, maternity and childhood protection and provision of high-quality medical and social assistance;

To utilize a comprehensive approach and breakthrough technologies in the creation of programmes for active healthy longevity;

To improve women's access to high-quality jobs by providing equal pay for work of equal value and accessible childcare services as well as to prevent violence and harassment in the workplace;

To use the best practices to ensure women's access to education;

To help to overcome inequality between men and women in science and attract public attention to women's achievements in the fields of science and charity;

To promote meaningful participation of women in science and to advance the moto "The world needs science and science needs women";

To enable access to justice for women in conflict and post-conflict situations, investigate, prosecute and punish perpetrators of violence as well as provide reparation to victims, where appropriate;

To utilize women's potential to combat the glorification of Nazism, neo-Nazism, and other practices that contribute to fueling contemporary forms of racism, racial discrimination, xenophobia, and related intolerance, as enshrined in Resolution 72/156 adopted by the UN General Assembly on 19 December 2017, and to this end to support the initiative to recognize the victory over Nazism in World War II as a world heritage of mankind, which is aimed at preserving memorials and monuments to those who fought against Nazism in all countries as a World Memorial of World War II;

To promote women's greater role in developing interreligious and interethnic dialogue, including by supporting the initiative of the Inter-Parliamentary Union as contained in Resolution 72/278 adopted by the UN General Assembly on 22 May 2018 to organize and hold a world Conference on interfaith and inter-ethnic Dialogue with the support of the United Nations and with the participation of Heads of State, Governments, Parliaments and representatives of world religions;

To hold the next Eurasian Women's Forum in 2021 and, given its importance as a major credible platform aimed at enhancing the role of women in the modern world, to grant it the status of a global women's forum;

Call upon Heads of States and Governments, Heads of parliaments, Heads of international organizations, political and public figures, representatives of business, science and culture, media and non-governmental organizations to make every effort to disseminate and implement the provisions of this Document.

United Nations A/73/565–S/2018/1023

General Assembly
Security Council

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16 November 2018

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General Assembly
Seventy-third session
Agenda item 45
Question of Cyprus

Security Council
Seventy-third year

Letter dated 14 November 2018 from the Chargée d'affaires a.i. of the Permanent Mission of Cyprus to the United Nations addressed to the Secretary-General

Upon instructions from my Government, I transmit herewith two documents detailing the violations of the national airspace of Cyprus, the infringements of international air traffic regulations in the flight information region of Cyprus (see annex I) and the illegal use of closed ports and airports in Cyprus, by Turkey, during the month of August 2018 (see annex II).

This persistent policy of violating international law and breaching international rules and regulations is a constant threat to international peace and security, has a negative impact on regional stability, jeopardizes the safety of international civil aviation, creates difficulties for air traffic over Cyprus and prevents the creation of an enabling environment in which to conduct the Cyprus peace process.

Turkey continues to systematically harass civilian and military aircrafts within the Nicosia flight information region via radio calls while, during the same period, the regime installed by the occupying power in the area of Cyprus that it occupies, has illegally issued one Notice to Airmen relating to exercises conducted by the Turkish Air Force. Additionally, Turkish commercial aircraft systematically use the Tympou airport, which continues to operate illegally following the closure, by the Cyprus Government, of all ports of entry in the areas where it does not exercise effective control.

The said actions of Turkey, which has continued to occupy the northern part of the Republic of Cyprus since 1974, are clearly aimed at undermining the sovereignty of Cyprus, consolidating the ongoing de facto division and upgrading the secessionist entity's status by claiming a purported airspace over the occupied territory of the Republic. In this respect, I would like to underline that there is only one Cypriot State, which is the Republic of Cyprus, as stipulated also in various Security Council resolutions (in particular resolutions 541 (1983) and 550 (1984)), in which the Council declared legally invalid the purported secession of part of Cyprus.

On behalf of my Government, I strongly protest the continuing violations of the national airspace and territorial waters of the Republic of Cyprus by Turkey, as well

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as the infringements by the latter of international air traffic regulations, and appeal for their immediate cessation.

The Republic of Cyprus reiterates, in this respect, its call for all States to respect Security Council resolutions and adhere to the principles of sovereignty and non-interference enshrined in the Charter of the United Nations.

Finally, I would like to urge Turkey and the Turkish Cypriot community to contribute to a meaningful resumption of the peace process, instead of focusing on undermining the sovereignty of the Republic of Cyprus and promoting the partition of Cyprus through the creation of facts on the ground and the formalization of the status quo, including by seeking to politically upgrade the secessionist entity.

I should be grateful if you would circulate the present letter and its annexes as a document of the General Assembly, under agenda item 45, and of the Security Council.

(*Signed*) Polly **Ioannou**
Chargée d'affaires a.i.

Annex I to the letter dated 14 November 2018 from the Chargée d'affaires a.i. of the Permanent Mission of Cyprus to the United Nations addressed to the Secretary-General

Airborne violations

Date	*Time*	*Nature of violation*
1 August	1258–1352	One Cougar Turkish military helicopter infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia flight information region (FIR) and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia area control centre (ACC)
	1600–1625	One Cougar Turkish military helicopter infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
	1245–1325	One B-350 Turkish military aircraft infringed international air traffic regulations by entering the Nicosia FIR without diplomatic permit and without contacting the Nicosia ACC
2 August	0836–0931	One B-350 Turkish military aircraft infringed international air traffic regulations by entering the Nicosia FIR without diplomatic permit and without contacting the Nicosia ACC
	0930–1017	One AS-532 Turkish military aircraft infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
	1047–1217	One CN-235 Turkish military aircraft infringed international air traffic regulations by entering the Nicosia FIR without diplomatic permit and without contacting the Nicosia ACC
	1323–1505	One AB-412 Turkish military aircraft infringed international air traffic regulations by entering the Nicosia FIR without diplomatic permit and without contacting the Nicosia ACC
	1939–2155	Two Turkish military helicopters infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
6 August	1002–1253	One Cougar Turkish military helicopter infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
7 August	1045–1252	One CN-235 Turkish military aircraft infringed international air traffic regulations by entering the Nicosia FIR without diplomatic permit and without contacting the Nicosia ACC

Date	*Time*	*Nature of violation*
8 August	0755–0850	One Cougar Turkish military helicopter infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
	0919–1420	Two Cougar Turkish military helicopters infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
	1132–1151	One CN-235 Turkish military aircraft infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
	1525–1624	One Cougar Turkish military helicopter infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
	1656–1713	One CN-235 Turkish military aircraft infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
9 August	1017–1118	One Cougar Turkish military helicopter infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
	1330–1444	One Turkish military helicopter infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
12 August	1700–1750	One CN-235 Turkish military aircraft infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
13 August	0926–1321	One CN-235 Turkish military aircraft infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC

Date	*Time*	*Nature of violation*
	1026–1042	One CN-235 Turkish military aircraft infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
	1845–1915	One CN-235 Turkish military aircraft infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
14 August	0556–0911	One CN-235 Turkish military aircraft infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
	1820–1854	One B-350 Turkish military helicopter infringed international air traffic regulations by entering the Nicosia FIR without diplomatic permit and without contacting the Nicosia ACC
15 August	0600–0910	One CN-235 Turkish military aircraft infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
	0958–1015	One A-340 Turkish military aircraft infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
	1622–1924	One Cougar and one Huey Turkish military helicopter infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
	2202–2218	One A-340 Turkish military aircraft infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
16 August	0607–0844	One CN-235 Turkish military aircraft infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
	0950–1102	One CN-235 Turkish military aircraft infringed international air traffic regulations by entering the Nicosia FIR without diplomatic permit and without contacting the Nicosia ACC

Date	*Time*	*Nature of violation*
	0955–1150	One King Air Turkish military aircraft infringed international air traffic regulations by entering the Nicosia FIR without diplomatic permit and without contacting the Nicosia ACC
	1602–1712	One CN-235 Turkish military aircraft infringed international air traffic regulations by entering the Nicosia FIR without diplomatic permit and without contacting the Nicosia ACC
	1639–1705	Two F-16 and two F-4 Turkish military aircraft infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
	1742–1900	Two Turkish military helicopters infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
17 August	0957–1052	One B-350 Turkish military aircraft infringed international air traffic regulations by entering the Nicosia FIR without diplomatic permit and without contacting the Nicosia ACC
	1755–1811	CN-235 Turkish military aircraft infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
19 August	0840–0926	One King Air Turkish military aircraft infringed international air traffic regulations by entering the Nicosia FIR without diplomatic permit and without contacting the Nicosia ACC
26 August	0950–1059	One CN-235 Turkish military aircraft infringed international air traffic regulations by entering the Nicosia FIR without diplomatic permit and without contacting the Nicosia ACC
	1010–1032	Two Cougar Turkish military helicopters infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
28 August	0952–1120	One Turkish military helicopter infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
	1350–1615	One Turkish military helicopter infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC

Date	*Time*	*Nature of violation*
	1443–1603	One Turkish military helicopter infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
	1902–1950	One B-350 Turkish military aircraft infringed international air traffic regulations by entering the Nicosia FIR without diplomatic permit and without contacting the Nicosia ACC
29 August	1049–1251	One CN-235 Turkish military aircraft infringed international air traffic regulations by entering the Nicosia FIR without diplomatic permit and without contacting the Nicosia ACC
	1102–1123	One B-200 Turkish military aircraft infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
	1441–1536	One Turkish military helicopter infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
	1601–1615	One B-200 Turkish military aircraft infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
	1735–1845	Four Turkish military helicopters infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
	1757–1845	One Huey Turkish military helicopter infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
30 August	1015–1144	Five Turkish military helicopters infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
	1158–1355	One B-350 Turkish military aircraft infringed international air traffic regulations by entering the Nicosia FIR without diplomatic permit and without contacting the Nicosia ACC

Date	*Time*	*Nature of violation*
	1800–1913	Two Cougar Turkish military helicopters infringed international air traffic regulations and violated the national airspace of the Republic of Cyprus by entering the Nicosia FIR and the national airspace of the Republic of Cyprus without diplomatic permit and without contacting the Nicosia ACC
31 August	1027–1243	One CN-235 Turkish military aircraft infringed international air traffic regulations by entering the Nicosia FIR without diplomatic permit and without contacting the Nicosia ACC
	1053–1304	One B-350 Turkish military aircraft infringed international air traffic regulations by entering the Nicosia FIR without diplomatic permit and without contacting the Nicosia ACC

Annex II to the letter dated 14 November 2018 from the Chargée d'affaires a.i. of the Permanent Mission of Cyprus to the United Nations, addressed to the Secretary-General

Naval violations

Date	*Nature of violation*
1 August	One F-512 Turkish missile vessel violated the territorial waters of the Republic of Cyprus and illegally used the closed port of Famagusta while participating in a naval operation of the occupation forces
1–7 August	One P-336 Turkish missile vessel violated the territorial waters of the Republic of Cyprus and illegally used the closed port of Famagusta while participating in a naval operation of the occupation forces
4–7 August	One F-512 Turkish missile vessel violated the territorial waters of the Republic of Cyprus and illegally used the closed port of Famagusta while participating in a naval operation of the occupation forces
8–9 August	One F-512 Turkish missile vessel violated the territorial waters of the Republic of Cyprus and illegally used the closed port of Famagusta while participating in a naval operation of the occupation forces
9–11 August	One P-334 Turkish missile vessel violated the territorial waters of the Republic of Cyprus and illegally used the closed port of Famagusta while participating in a naval operation of the occupation forces
10–14 August	One P-334 Turkish missile vessel violated the territorial waters of the Republic of Cyprus and illegally used the closed port of Famagusta while participating in a naval operation of the occupation forces
11–15 August	One F-512 Turkish missile vessel violated the territorial waters of the Republic of Cyprus and illegally used the closed port of Famagusta while participating in a naval operation of the occupation forces
15–16 August	One P-336 Turkish missile vessel violated the territorial waters of the Republic of Cyprus and illegally used the closed port of Famagusta while participating in a naval operation of the occupation forces
17–18 August	One F-512 Turkish missile vessel violated the territorial waters of the Republic of Cyprus and illegally used the closed port of Famagusta while participating in a naval operation of the occupation forces
17–18 August	One P-336 Turkish missile vessel violated the territorial waters of the Republic of Cyprus and illegally used the closed port of Famagusta while participating in a naval operation of the occupation forces
18 August	One P-334 Turkish missile vessel violated the territorial waters of the Republic of Cyprus and illegally used the closed port of Famagusta while participating in a naval operation of the occupation forces
20–27 August	One P-336 Turkish missile vessel violated the territorial waters of the Republic of Cyprus and illegally used the closed port of Famagusta while participating in a naval operation of the occupation forces

Date	*Nature of violation*
25–28 August	One F-490 Turkish vessel violated the territorial waters of the Republic of Cyprus and illegally used the closed port of Famagusta while participating in a naval operation of the occupation forces
25–29 August	One A-1600 Turkish vessel violated the territorial waters of the Republic of Cyprus and illegally used the closed port of Famagusta
30–31 August	One P-338 Turkish vessel violated the territorial waters of the Republic of Cyprus and illegally used the closed port of Famagusta while participating in a naval operation of the occupation forces

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General Assembly

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Seventy-third session
Agenda item 130
International Residual Mechanism for Criminal Tribunals

Election of two judges to the roster of the International Residual Mechanism for Criminal Tribunals: curricula vitae of candidates nominated by States Members of the United Nations and by non-member States maintaining permanent observer missions at United Nations Headquarters

Note by the Secretary-General

1. The Secretary-General has the honour to submit to the General Assembly the curricula vitae of the candidates nominated by States Members of the United Nations and by non-Member States maintaining permanent observer missions at United Nations Headquarters for the election of two judges to the roster of the International Residual Mechanism for Criminal Tribunals (see annex). The voting procedures to be followed in the Assembly are set out in a memorandum by the Secretary-General (A/73/577).

2. The names and nationalities of the candidates are as follows:

Yusuf Aksar (Turkey)

Mohammed Benhammou (Morocco)

Aboubacar Demba Camara (Guinea)

Mustapha El Baaj (Morocco)

Constant K. Hometowu (Ghana)

Guénaël Mettraux (Switzerland)

Hafiz Nasibov (Azerbaijan)

Michael A. Newton (United States of America)

Mame Mandiaye Niang (Senegal)

Elyakim Rubinstein (Israel)

Moussa Sampil (Guinea)

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Annex*

Curricula vitae of candidates nominated by States Members of the United Nations and by non-member States maintaining permanent observer missions at United Nations Headquarters

Yusuf Aksar (Turkey)

Personal:

Date and place of birth: 05.01.1972; Çarşamba-Samsun/Turkey

Education:

1989–1993: University of Ankara, Faculty of Law; Ankara, Turkey (LL.B. 1993)

1994–1996: University of Ankara, Faculty of Law; Ankara, Turkey (LL.M. 1996)

1996–1997: University of Sheffield, Faculty of Law; Sheffield, UK (LL.M. 1997)

1997–2000: University of Bristol, Faculty of Law; Bristol, UK (Ph.D. 2000)

Languages:

Fluent in English and Turkish

Professional Experience:

2000–2004: Assistant Professor, Blacksea Technical University, Faculty of Economics and Administrative Sciences Department of International Relations, Trabzon, Turkey

2005–2010: Associate Professor and Head of Department of International Law, Blacksea Technical University, Faculty of Economics and Administrative Sciences Department of International Relations, Trabzon, Turkey

2007–2009: Associate Professor (part-time), Kadir Has University, Faculty of Law, Istanbul, Turkey

2010–2011: Professor and Head of Department of International Law, Blacksea Technical University, Faculty of Economics and Administrative Sciences Department of International Relations, Trabzon, Turkey

2011 to date: Professor, Maltepe University, Faculty of Law, Istanbul, Turkey

2011 to date: Head of Department of International Law/Public Law, Maltepe University, Faculty of Law, Istanbul, Turkey

2012 to date: Dean of the Faculty of Law, Maltepe University, Istanbul, Turkey

Member

2016–2022: Member of the Permanent Court of Arbitration

2015 to date: Ad Hoc Judge of the European Court of Human Rights

2009–2013: Member of the European Society of International Law

2007–2010: Member of International Law Association

* Curricula vitae are issued without formal editing.

Honours:

Awarded by the Turkish Academy of Sciences as one of the Honourable Youngest Scientists of 2007

Principal Publications:

A. Books:

1. Aksar, Y., Implementing International Humanitarian Law: From the Ad Hoc Tribunals to a Permanent International Criminal Court, London/New York, Routledge: (2004).

2. Aksar, Y. (ed.). (2011) Implementing International Economic Law Through Dispute Settlement Mechanisms, Leiden, Boston, Holland/USA (Ağustos 2011).

3. Uluslararası Ceza Mahkemesi ve Uluslararası Ceza Usul Hukuku, (*International Criminal Court and Rules of Procedure and Evidence of International Criminal Law*), Ankara: Seçkin Yayınevi, (2003).

4. Aksar, Y. Evrensel Yargı Kuruluşları, (*International Judicial Institutions: Permanent Court of Arbitration, International Court of Justice, The International Tribunal for the Law of the Sea and the International Criminal Court*), Ankara: Seçkin Yayınevi, (2007).

5. Aksar, Y. Teoride ve Uygulamada Uluslararası Hukuk I, (*International Law in Theory and Practice- I*), 4th edition, Ankara: Seçkin Yayınları,2017.

6. Aksar, Y. Uluslararası Hukuk II, (*International Law in Theory and Practice- II*), 4th edition, Ankara: Seçkin Yayınları, 2017.

7. Aksar, Y. Temel Metinler ve Davalarla Uluslararası Hukuk, (*Cases and Materials on International Law*), Ankara: Seçkin Yayınları, 2017.

B. Articles

1. Aksar, Y., "The Concept of Individual Criminal Responsibility in International Humanitarian Law and Arab-Israeli Conflict in 2002," *The Review of International Affairs*, 2/2, 91–114 (2002).

2. Aksar, Y., "The "Victimized Group" Concept in the Genocide Convention and the Development of International Humanitarian Law through the Practice of the Ad Hoc Tribunals," *Journal of Genocide Research*, 5/2, 211–224 (2003).

3. Aksar, Y. The UN Security Council and the Enforcement of Individual Criminal Responsibility: The Darfur Case. *African Journal of International and Comparative Law*, 14/1, 104–119 (2006).

4. Aksar, Y. The Specific Intent (*Dolus Specialis*) Requirement of the Crime of Genocide: Confluence or Conflict between the Practice of Ad Hoc Tribunals and the ICJ, *Uluslararası Ilişkiler*, Vol. 6, No 23, (Fall 2009), 113–126 (2009).

5. Aksar, Y. The Iraqi Special Tribunal: Nuremberg of the Twenty-First Century? *Turkish Review of Middle East Studies*, 16, 7–33 (2005).

6. Aksar, Y. The Concept of Command Responsibility? Superior or "Objective" Responsibility" in International Humanitarian Law: The Practice of the ICTY and the ICTR and Their Possible Impact on the ICC, *Turkish Review of Balkan Studies*, 17, 5–26 (2006).

7. Aksar, Y. Bir Uluslararası Suç Kategorisi Olarak Uluslararası Ceza Hukuku ve Türk Hukukunda İnsanlığa Karşı İşlenen Suçlar, *Uluslararası Suçlar ve Tarih*, 2, 135–150 (2006).

8. Aksar, Y. The Case of Thomas Lubanga Dyilo: The Implementation of a Fair and Public Trial at the Investigation Stage of International Criminal Court Proceedings, *Ankara Bar Review*, 2/2, 81–91 (2009).

9. Aksar, Y. "The European Court of Human Rights and the Cyprus Problem", *Ankara Üniversitesi Hukuk Fakültesi Dergisi*, 50/3, 141–174 (2001).

10. Aksar, Y. "Birleşmiş Milletler Palmer (Mavi Marmara) Raporu ve Uluslararası Hukuk", *Uluslararası İlişkiler*, V. 9, No. 33, (Spring 2012), 23–40 (2012).

11. Aksar, Y. "Uluslararası Bir Suç Kategorisi Olarak Soykırım Suçu ve Diğer Uluslararası Suçlardan Farklı Yönleri", *Maltepe Üniversitesi Hukuk Fakültesi Dergisi*, Sayı 2014/2, 13–29 (2015).

Mohammed Benhammou (Morocco)

[Original: French]

Date of birth: 20 December 1955

EDUCATION:

1980: Law degree

2003: Degree in English literature

PROFESSIONAL EXPERIENCE:

2015 to date: President of the Criminal Chamber, section 3, of the Court of Cassation dealing with:

- Criminal cases of various types
- Extradition cases under international conventions

2004–2014: Judge in the Criminal Chamber of the Court of Cassation in Morocco

2002–2004: President of the Criminal Chamber of the Court of Appeals at El Jaida

INVOLVEMENT IN INTERNATIONAL TRAINING:

2015: Contribution to a programme of legal training at the Court of Cassation of Turkey, on the subject of terrorism and international cooperation.

2010: Contribution to a programme of legal training at the Court of Cassation of France, in Paris.

2007: Contribution to a programme of judicial training:
Korean judicial training program for multinational senior judges: strengthening judicial integrity and capacity.

SEMINARS:

2017: Participation in a seminar at Fes, Morocco, on questions of torture and international cooperation.

2015: Participation in a seminar in Mauritania on electronic crime.

2012: Participation in a seminar in Lebanon on corporate crime.

2009: Participation in the 24th Congress of the International Bar Conference.

LANGUAGES:

French: Fluent.

English: Fluent.

Arabic: Fluent.

Aboubacar Demba Camara (Guinea)

[Original: French]

Date and place of birth:	1 December 1954 in Conakry
Parentage:	El Hadj Abdoulaye (deceased) and Hadja Mariama Sylla
Occupation:	Judge, class A, grade 7, level 12

EDUCATION:

1960-1966	Primary school – CEP [certificate of primary studies]
1967-1971	Secondary school – BESP [certificate of secondary studies]
1971-1974	High school, Baccalauréat Unique *avec mention* [distinction]
1975-1979	Higher education at the Faculty of Administrative and Legal Science of the Gamal Abdel Nasser Polytechnic Institute (IPGAN)-Conakry
Area of specialization:	Judiciary
Degree earned:	*Diplôme d'Etudes Supérieures* [first degree]
1994	*Diplôme d'Etude Approfondie* [advanced degree]

Professional judge, graduated from the *Ecole Nationale de Magistrature* [National School of the Judiciary] of Dakar *avec mention excellente* [with honours]

PROFESSIONAL CAREER:

1980-1981: Training course in the Regional Court of Conakry I;

1981-1982: Attaché, Office of the President of the Regional Court of Conakry I;

1982-1984: President of the Court of Second Instance of Tomba-Conakry;

1985-1987: Assistant prosecutor at the Court of Appeal of Dubreka;

1988-1990: Examining magistrate, Court of First Instance in Conakry I;

1990-1991: Chief of the Section of Legal Affairs and the Seal;

1991: Recipient of a grant for a training course at the *Ecole Nationale d'Administration et de Magistrature* [National School of Administration and the Judiciary] (ENAM) of Dakar;

1994: Completion of the training cycle, graduated *avec mention excellente* [with honours] from ENAM, Dakar;

1994-1995: Deputy Prosecutor-General of the Court of Appeal of Conakry;

1995: Seconded to the Ministry of Mines and Geology, responsible for legal and judicial affairs;

1997 -2003: Legal Adviser to the Minister for Mines;

May 2005: Deputy National Director of Legal and Consular Affairs in the Ministry of Foreign Affairs;

27 August 2008: National Director of la Francophonie;

2013: Deputy Director, Europe, America and Oceania;

2014: National Director for International Organizations;

2016: Legal Adviser to the Ministry of Foreign Affairs and Guineans Living Abroad;

2018: Director of the Legal Documentation Centre at the Ministry of Justice.

Internships and training:

1997: Canada and the United States of America, in the Stekman and Padmore law office, on negotiations;

1998: University of Pittsburgh, United States of America, on the management of development projects;

1998 -1999 Negotiating mission on mining agreements between the Republic of Guinea and mining partners across the world (France, United States of America, Canada, London, Dubai, Tehran, Moscow, Germany, Ghana, Morocco);

July 2006: Training course in Geneva, Switzerland on diplomacy and development, Centre for Applied Studies in International Negotiations (CASIN);

September-December 2008: Participation in the sixty-third session of the General Assembly;

United Nations, New York;

Mission on reviving cooperation, Germany and Havana;

2013: Participation at the third United Nations Conference on Small Island Developing States in Apia (Samoa);

December 2014: Participation at the Economic Community of West African States (ECOWAS) summit in Abuja (Nigeria);

February 2015: Mission to the United Nations in New York, on development and climate.

International languages:

French: excellent;

English: fair.

Mustapha El Baaj (Morocco)

[Original: French]

Date of birth: 29 April 1971

Place of birth: Meknès

Place of work: Court of Cassation in Rabat

Certificates and Diplomas:

1. Primary school certificate in 1983.

2. Secondary school certificate in 1987.

3. Baccalauréat in modern literature on 28 June 1990, *avec la mention assez bien* [commended].

4. Degree in applied private law (area of specialization: business law) *avec la mention assez bien* [commended] 6 July 1994.

5. Diploma from the Higher Institute of Judicial Studies awarding the title of Judge *avec la mention bien* [highly commended] (third place prize) on 29 October 1996.

6. Certificate of the French Institute for Judicial Studies on 29 November 1997 (two months' training).

7. Certificate of the French Institute for Judicial Studies on 29 June 1999 (six months' training).

8. Diploma of advanced studies in business law *avec la mention assez bien* [commended] on 16 July 2002.

9. Test of English as a Foreign Language (TOEFL) - Score: 523. TOEFL Writing Test (TWE): 4.0 on 21 August 2004.

10. Doctorate in business law, area of specialization: company law (25 January 2008) *avec la mention très honorable* [high honours].

11. Fulbright scholarship in 2006.

12. One year of research at the University of Florida, United States of America, in 2006.

13. Two modules on bankruptcy law in the United States of America.

14. Training certificate under the International Visitor Leadership Program (IVLP) in the United States of America in 2016.

15. Training certificate in the context of judicial cooperation with South Korea in Seoul in 2017.

Professional activities:

- First Deputy Crown Prosecutor in the Court of First Instance at Meknès since 15 November 1996;
- Deputy Crown Prosecutor-General since October 2008;
- Visiting Professor at the Law Faculty of Meknès since 1 October 2004;
- Counsellor at the Court of Cassation (criminal chamber) since September 2013;
- 22 years of experience as a criminal court judge.

Languages:

Arabic, French and English

Internships:

Training course in France in 1997 at the International School of the Judiciary, Paris, two months;

Training course in France at the Paris Court of Appeal and the High Court of Nantes for six months in 1999;

Internship at the High Court of Versailles in 2003, sentencing section;

Visit to the bankruptcy court in Tampa (United States of America) in 2006;

Visit as an international visitor to the United States of America in 2016;

Working visit to South Korea in 2017.

Conferences:

Several conferences on criminal law, criminal business law, money-laundering, business law etc.

Publications:

« *Introduction au droit des sociétés au Maroc* »

« *La procédure de redressement judiciaire au Maroc* »

« *Le ministère public : ambiguité des textes juridique* »

« *Le syndic face à l'action en comblement du passif* »

« *Progrès de la législation pénale en matière pénale* »

« *La communication au ministère public des affaires relatives aux procédures collectives* »

« *La société en nom collectif en droit marocain* »

« *Pourquoi un ministère public en matière des procédures Collectives ?* »

« *L'extension de la procédure aux dirigeants de l'entreprise* »

« *Un aperçu su le droit commercial au Maroc* »

« *La formation et la disparition des sociétés en droit marocain* »

« *Le commissaire aux compte en tant que source d'information* »

« *L'émergence d'un droit de l'entreprise en difficulté au Maroc* »

« *Un ministère public dépourvu de moyens d'information* »

« *La nécessité de la cessation des paiements* »

« *Le droit d'information du ministère public au USA* »

« *Le renforcement du droit d'information du ministère Public en France* »

« *Le ministère public et les procédures collectives* »

« *Y'a -t-il un ministère public en matière de procédures Collectives aux USA* »

« *Bankruptcy procedures in Morocco* »

These articles have been published on the legal sites: Village de la Justice, Legavox and Planète juridique.

Constant K. Hometowu (Ghana)

[Original: English]

EDUCATIONAL BACKGROUND

October 2014: MPhil Degree, Maastricht School of Management (MsM). Research topic: "The Impact of the On-going Judicial Reforms on Justice Dispensation in the Ghana Judicial Service".

November 2007: Executive Master's Degree in Business Administration (MBA), awarded by the Eastern and Southern African Management Institute (ESAMI) in conjunction with the Maastricht School of Management (MsM). Research topic: "Re-engineering the Operations of the Court Management Section of the ICTR, within the context of the Completion Strategy".

1993 to 1997: Barrister at Law Degree, Ghana School of Law, Accra, Ghana.

1984 to 1988: Bachelor of Arts (Honours) Degree (Second Class, Upper Division) in French, University of Cape Coast.

1986-1987: French Proficiency Course at the Université Cheick Anta Diop, Dakar, Senegal.

1984 to 1988: Diploma in Education, University of Cape Coast.

LANGUAGES

International: Proficient in written, spoken Swahili, English and French

National: Ewe and Twi

WORK EXPERIENCE

– Ghana Case Tracking System Activity Project

May 2018 to Present: Two-year secondment with the Ghana Case Tracking System (CTS) Activity, as Change Management and Communications Coordinator.

The CTS is a USAID-funded criminal justice reform project aimed at ensuring effective and efficient investigations and prosecution of criminal cases through the promotion of inter-agency collaboration and information sharing among the key stakeholder agencies, from arrest to incarceration.

– Judicial Service of Ghana

October 2013 to July 2015: Justice of the High Court of Ghana. Conducted summary trials on criminal offences such as drug/psychotropic substances, robbery and fraudulent transactions.

October 2015 to April 2018: Presiding Judge of the first High Court, established within a Prison facility in Ghana - the Nsawam Medium Security Prison - heard and determined appeals from judgments of the Circuit and Magistrate Courts. Delivered a total of 185 judgments. The objective of the programme is to uphold the remand prisoners' right to expeditious trial and personal liberty and thereby decongest overcrowded prisons in Ghana.

– Military Enquiries

14th August 2015: Permanent Judge Advocate for all Military Enquiries. I presided over all trials involving Military personnel at Court Martials and handled nine (9) cases in total.

– International Criminal Tribunal for Rwanda

November 2000 to 30 September 2013 – Legal Officer within the Court Management Section of the United Nations International Criminal Tribunal for Rwanda, (ICTR) based in Arusha, Tanzania. Employed as Courtroom Officer, I got promoted to Coordinator and then Officer-in-Charge of the Judicial Proceedings Unit of the Judicial and Legal Affairs Section of the Registry.

September 2012 to September 2013: Appointed Trial Monitor to monitor the trials of two (2) accused persons transferred from the UN Tribunal to Rwanda for trial within the national jurisdiction. My main duty was to observe the trial processes, the conditions of detention of the accused persons and the facilities made available to them by the Rwandan Government to ensure fair trial, treatment and disposition of their cases. I submitted periodic reports to the Tribunal, which were subjected to strict UN scrutiny to determine whether the accepted UN minimum standards for the treatment of prisoners were being complied with by the Rwandan Courts. The reports also formed the basis for the preparation of periodic report to the United Nations Security Council.

– Ghana Immigration Service

1997 to 2000: First Prosecutor for the Ghana Immigration Service, with the responsibility of bringing before the law courts, persons suspected to have flouted Immigration-related offences.

1994 to 1997: Staff Officer of the Ghana Immigration Service at the Kotoka International Airport, supervising the handling of arriving and departing passengers.

I also lectured recruits and service personnel on Immigration Law at the Ghana Immigration and Academy and Training School.

– Teaching Experience

1989-1994: I taught English at the Dambai Training College and Salem Secondary School in Accra respectively.

Membership of Judges' Associations

1. Member: Commonwealth Magistrates' and Judges' Association (CMJA). Elected Vice President of the West African Branch at the 18th Triennial Conference in Brisbane, Australia, on 11 September 2018.

2. Member of the Association of Magistrates and Judges of Ghana (AMJG) and ex-officio member of the AMJG Executive (in my capacity as Vice President, CMJA West Africa). Former Eastern Regional representative on the AMJG Executive Committee.

3. Represented the Judicial Service on numerous committees, such as the High-Level Implementation Committee (HiLIC) of the National Anti-Corruption Action Plan (NACAP) and the National Ethics Advisory Committee (NEAC), among others.

Areas of Expertise and Interest: Court Management

As a consultant, I was invited to reorganise the Registry and share experience in Court Management with staff of the Community Court of Justice (CCJ) of the Economic Community of West African States (ECOWAS) in Abuja, Nigeria from 24 to 28 September 2012.

In May 2013, I shared experience and expertise with the Registry and staff of the Caribbean Court of Justice based at Port of Spain, Trinidad and Tobago, mainly on electronic filing. The final report I submitted to the President of the Court formed the basis for the re-organization of the Registry functions.

I also participated as a resource person in a one-week training and shared experience in Court Technology and Court Management with selected Registrars and Administrators of the Judicial Service of Ghana from 30 September to 4 October 2013.

Further, I conducted a one-week training on Court Technology and Court Management for the staff of the African Court on Human and Peoples' Rights (ACHPR) in Arusha in November 2013, at the invitation of the then President of the ACHPR, now Chief Justice of the Republic of Ghana.

PARTICIPATION IN INTERNATIONAL SEMINARS

2015

Second African Judicial Dialogue, held in Arusha, Tanzania, from 4th to 6th November. Theme "Connecting National and International Justice". It provided participants with a forum to discuss and share experiences between continental, regional and national courts, particularly in the application and interpretation of the African Charter on Human and Peoples' Rights instruments, as well as enhance access to justice on the continent.

2017

1. Commonwealth Magistrates' and Judges' Association (CMJA) Regional Conference, Dar Es Salaam, Tanzania. Theme "Building an Effective, Accountable and Inclusive Judiciary". Attended by 17 Chief Justices, and about 400 Judges, Magistrates and Judiciary staff from forty-three (43) Commonwealth countries.

2. 3rd African Judicial Dialogue, held in Arusha, Tanzania, from 9th to 11th November 2017, on the theme "Improving Judicial Efficiency in Africa". I represented the Honourable Lady Chief Justice of Ghana, Justice Sophia A. B. Akuffo, at the Dialogue. Paper presented: "Use of Technology in Courts: Sharing Ghana's Experience". Moderated a session on the topic "Normative and Institutional Challenges of Accessing and Using the Jurisprudence of Supra National and Regional Courts by Domestic Courts".

2018

1. Kenya Criminal Justice System Study Tour: Organized by the United States Department of Justice, Office of Overseas Prosecutorial Development, Assistance and Training, from 28th January to 2nd February 2018. It offered us an opportunity to have in-depth discussions on Plea Bargaining, Paralegal Training in Prison and Successful Transition from Police Prosecutor System.

2. Judicial Case Management and Ethics Course: Organized by the Commonwealth Magistrates and Judges Association (CMJA) at the Civil Service College, London, UK, from 19th to 22nd of February 2018. The course addressed issues of relevance such as robust case management of criminal and civil cases, judgment writing, independence of the judiciary, ethical behavior, among others.

3. 18th Triennial Conference of Commonwealth Magistrates' and Judges' Association. This conference took place in Brisbane, Australia, from 9th to 14th September 2018. The theme of the Conference was "Becoming Stronger Together". I chaired the discussion session on "Coordinating International Justice Systems".

Guénaël Mettraux (Switzerland)

I. LEGAL PRACTICE

Kosovo Specialist Chambers *Judge*	February 2017 – present
Human Rights Review Panel (HRRP) *Panel Member*	September 2012 – present
Permanent Court of Arbitration (PCA) Appeal Board, *Chairman*	May 2018 – present
International Criminal Court (ICC) *Counsel* for State Parties	September 2014 – present
United Nations Department of Political Affairs, Middle East and West Asia Division and UNODC (Iraq) Senior Consultant (anti-terrorism and ISIS Accountability)	April 2017 – present
Amnesty International Senior consultant	December 2016 – present
Special Tribunal for Lebanon (STL) *Counsel* and, from February 2017, legal consultant for Assad Hassan Sabra *(Prosecutor v Ayyash et al – "Rafik Hariri trial")* First international criminal trial for terrorism	October 2011 – 30 June 2017
In the matter between the Ministry of Justice and Constitutional Development and the Southern African Litigation Center *("President Al-Bashir case")* *Granted leave to appear as amicus curiae by the Constitutional Court of South Africa*	October 2016
International Criminal Tribunal for the former Yugoslavia (ICTY) *Appeal Counsel, Prosecutor v General Milivoj Petkovic (Appeals proceedings)*	May 2013 – 2015
International Criminal Tribunal for Rwanda (ICTR) *Appeal Counsel, Augustin Ngirabatware v Prosecutor (Appeals proceedings)*	February 2013 – Dec 2014
Extraordinary Chambers in the Courts of Cambodia (ECCC) *Consultant*, Defence team of Khieu Samphan (Appeals proceedings)	September – December 2014
International Criminal Tribunal for the former Yugoslavia (ICTY) *Appeal Counsel, Prosecutor v General Ante Gotovina (Appeals proceedings)*	April 2011 – November 2012

Special Court for Sierra Leone (SCSL) *Counsel for X*	December 2012
International Criminal Tribunal for the former Yugoslavia (ICTY) *Lead Counsel, Contempt investigation against X*	April 2011– December 2011
International Criminal Tribunal for the former Yugoslavia (ICTY) *Lead Counsel, Contempt investigation against Y*	Feb 2011– December 2011
International Criminal Tribunal for the former Yugoslavia (ICTY) *Lead Counsel, In the Contempt Case against Berko Zecevic*	February 2011
Special Tribunal for Lebanon (STL) *Legal Consultant, Defence Office* *Assigned counsel (07/02/2011), Defence Office*	September 2008 – 2010
International Criminal Tribunal for the former Yugoslavia (ICTY) *Legal consultant - Defence team of General Milivoj Petkovic in the case Prosecutor v. Prlic et al (Trial Proceedings)*	November 2010 – 2011
International Criminal Court (ICC) The Hague, the Netherlands *Legal consultant for Jean-Pierre Bemba in Prosecutor v. Bemba*	December 2009 – 2014
International Center for Transitional Justice (ICTJ) *Legal consultant* (on Transitional justice, international criminal justice/procedure, human rights investigations)	April 2010 – 2011
Afghanistan Documentation/Mapping project - Action Plan on Peace, Justice and Reconciliation Afghan Independent Human Rights Commission, Kabul *Legal consultant* (transitional justice; international crimes mapping)	January 2010 – 2011
State Court of Bosnia and Herzegovina, War Crimes Chamber *Counsel for X, criminal investigation ("Trusina")*	Nov 2009 – 2011
International Criminal Tribunal for the former Yugoslavia (ICTY) *Legal Consultant for Mr. Mico Stanisic in the case Prosecutor v. Stanisic (Trial Proceedings)*	June 2008 – July 2009
International Criminal Tribunal for the former Yugoslavia (ICTY) Defence Counsel/Attorney for Ms. Florence Hartmann in the case against Florence Hartmann (Contempt Proceedings - ICTY)	February 2009 – 2011

Extraordinary Chambers in the Courts of Cambodia (ECCC) *Legal Consultant, Defence Support Section* *Legal Consultant, Defence team Mr. Khieu Samphan*	July 2008 – March 2009
International Criminal Tribunal for the former Yugoslavia (ICTY) *Defence Counsel/Attorney for Mr. Ljube Boskoski in the case Prosecutor v. Boskoski and Tarculovski (Trial and Appeals proceedings)*	June 2006 – May 2010
War Crimes Chamber, State Court Bosnia and Herzegovina *Consultant, Defence Office (OKO)*	Jan 2006 – March 2006
International Criminal Tribunal for the former Yugoslavia (ICTY) *Defence Counsel/Attorney for General Sefer Halilovic in the case Prosecutor v Halilovic (Trial and Appeals proceedings)*	Sept 2003 – Oct 2007
International Criminal Court (ICC) *Consultant, Registry*	Sept 2003 – Dec 2003
International Criminal Tribunal for the former Yugoslavia (ICTY) *Legal Officer, Trial and Appeals Chambers*	1 Oct 1999 – Sept 2003

II. ACADEMIC POSITIONS

(Geneva) Academy of International Humanitarian Law And Human Rights Geneva, Switzerland *Executive Master, Faculty*	2018-2019
Dickinson Law School, PennState University Carlisle, Pennsylvania, United States *Affiliate Professor of International Criminal Law Practice*	July 2018 – present
University of Amsterdam (UvA) Amsterdam, the Netherlands *Emeritus Professor of International Criminal Procedure* Director of Joint Master Program with Columbia Law School (2014-2017)	February 2012 – present
Université de Fribourg Fribourg, Switzerland *Guest Lecturer (Master)*	September 2010 – present
University of Leiden Leiden, the Netherlands *Guest Professor (Advanced Master in International Law)*	September 2008 – 2011

Geneva Academy of International Humanitarian Law Geneva, Switzerland *Guest Professor (Master in International Humanitarian Law)*	September 2009 – July 2010
University of Sarajevo, Law Faculty Sarajevo, Bosnia and Herzegovina *Guest Professor*	December 2006 – September 2008

III. EDUCATION

London School of Economics and Political Science (LSE), **Law Department** London, UK Supervisor: Professor Christopher Greenwood	PhD – 17 March 2008
University College London London, UK	LLM, International Law – 1997
Université de Lausanne Lausanne, Switzerland	Licence en Droit – 1996

IV. PROFESSIONAL AND ACADEMIC ORGANIZATIONS

Journal of International Criminal Justice Oxford, UK *Editorial Committee*	2003 – present
International Criminal Law Review The Hague, the Netherlands *Board of Editors*	2002 – present
Doughty Street Chambers *Associate Tenant*	May 2011 – present
International Criminal Court The Hague, the Netherlands *Defence Counsel list*	2009 – present

V. SELECT PUBLICATIONS

The Law of Command Responsibility (Oxford: Oxford University Press, March 2009)

- Awarded the 2009 Lieber Prize for books by the *Lieber Society of the American Society of International Law*

International Crimes and the ad hoc Tribunals, (Oxford: Oxford University Press, 2005)

Perspectives on the Nuremberg Trial (Oxford: Oxford University Press, 2008)

Hafiz Nasibov (Azerbaijan)

[Original: Russian]

Full name: Hafiz Qanbar ogiu Nasibov

Date and place of birth: 13 May 1962, Baku

Citizenship: Republic of Azerbaijan

Education: Higher: graduated in law in 1988 from the Law Faculty of Kuibyshev (now Samara) State University of the Russian Federation (area of specialization: judicial/investigative/prosecutorial)

Work experience:

1988-1989: General Counsel, Ministry of Housing and Public Services of Azerbaijan;

1989-1990: Investigator, Office of the Prosecutor, Borsky district, Kuibyshev (now Samara) province, Russian Federation;

1990-1994: General Counsel, Ministry of Housing and Public Services of Azerbaijan;

From 1 July 1994 to the present: served as a judge in Azerbaijan, including:

1994-2000: Judge, Military Tribunal of the Nakhchivan garrison (since renamed the Military Court of the Nakhchivan Autonomous Republic);

2000-2003: Judge, Supreme Court of the Nakhchivan Autonomous Republic;

2003-2007: President, Criminal Chamber of First Instance, Supreme Court of the Nakhchivan Autonomous Republic;

2007-2010: President, Military Courts Chamber, Supreme Court of the Nakhchivan Autonomous Republic;

September 2010 to the present: Judge, Criminal Chamber, Supreme Court of Azerbaijan, and also, since 2016, member of the Judges Selection Committee.

Languages: I am fluent in Azerbaijani and Russian; in English I can read and translate with a dictionary.

Military service: 1980-1982: active fixed-term military service in the Armed Forces of the Union of Soviet Socialist Republics (USSR);

1994-2000: during my period of service as a military judge, I was in active military service as an officer of the Armed Forces of Azerbaijan, with the military rank of Major of Justice.

State awards: Awarded the Taraggi medal in 2008

Michael A. Newton (United States of America)

[Original: English]

Professor of the Practice of Law and Professor of the Practice of Political Science, Vanderbilt University Law School

Current Courses: International Protection of Human Rights, International Criminal Law, Comparative Counterterrorism, Advanced International Humanitarian Law Seminar & International Law Practice Lab Other Expertise: Peace Operations, Foreign Relations, Human Rights Litigation,

Education:

LL.M., The University of Virginia School of Law, Charlottesville, Virginia (2001)

LL.M., The U.S. Army Judge Advocate General's School, Charlottesville, Virginia (1996)
(focused on International Criminal Law)

J.D., The University of Virginia School of Law, Charlottesville, Virginia (1990)

B.S., United States Military Academy, West Point, New York (1984)

Professional Memberships:

Elected Member, International Institute of Humanitarian Law, American Society of International Law (Elected to Executive Council); Virginia Bar; Admitted to the List of Counsel, International Criminal Court; International Bar Association; American Bar Association;

Selected Professional Activities:

Submitted Brief upon request from the ICC Appeals Chamber and argued as amici in *Al Bashir* Appeal

Member, Board of Advisors for the ABA International Criminal Court Project, http://www.aba-icc.org/

One of the two U.S. delegates who successfully negotiated the Elements of Crimes Document for the International Criminal Court – 1999 – 2001 [helped gain consensus on the document]

Provided Legal Advice on conduct of hostilities to the Libyan Transitional National Council - 2011

Expert consultant to the litigation teams at the ICC – *Abu Garda*, *Bemba*, Al Bashir, and *Ntaganda* cases

Supporting Iraqi Kurdish Regional Government officials in documenting and prosecuting Da'esh atrocities beginning in August 2014 [to include helping establish evidence collection processes]

U.S. representative on the UN Planning Mission for the Sierra Leone Special Court – 2002 (Member of the Special Court Academic Consortium and involved in various aspects of litigation)

Member of the Experts Roster for Justice Rapid Response Mechanism

Served as International Legal Advisor to the Judicial Chambers of the Iraqi High Criminal Court 2006 - 2009 [extensive advice related to, *inter alia*, Dujail trial, Anfal genocide case, and 1991 cases]

Argued as part of the litigation Team at the Appeal of Jean-Pierre Bemba to the ICC Appeals Chamber

Coordinated support to the UN Conduct and Disciplinary Affairs Unit with respect to regulations for investigation and prosecution of widespread gender crimes committed during UN Peace Operations by both uniformed contingents and civilian staff

Expert Advisor to the UN Office of Drugs and Crime, Human Trafficking Case Digest

Expert Advisor to the State Comptroller of Israel [advising on IDF actions in Gaza conflict], 2015-2018

Expert Advisor to the Government of Peru – assisted with analysis in support of the Fujimori trial and working with the Supreme Court and Ministry of Justice in support of ongoing judicial reforms]

International Advisor on Domestic Incorporation of the Rome Statute for the Government of Uganda – 2008-2011 [worked with Governmental officials, High court judges, and UN agencies in support of DDR efforts in Northern Uganda, the work of the Amnesty commission, and the establishment of the domestic war crimes chamber]

Expert leader for Working Group III [Terrorism and Human Rights] during which roughly twenty of the world's leading experts negotiated and promulgated by consensus the Leiden principles [see COUNTER-TERRORISM STRATEGIES IN A FRAGMENTED INTERNATIONAL LEGAL ORDER]

Advised the Afghanistan Rule of Law Field Force – 2010 & 2011 [human rights issues and technical assistance related to rule of law reform]

Invited Expert assisting the Committee on Economic, Social, and Cultural Rights – 2014

Expert advisor to the Genocide Prevention Task Force, United States Holocaust Memorial Museum, American Academy of Diplomacy, and United States Institute of Peace – 2008

Assisted in Drafting and Implementation of the Statute for the Iraq Special Tribunal, 2003-4

Expert Adviser to the United Nations Regional Center for Peace, Disarmament and Development in Latin America and the Caribbean (UNLIREC) – 2013 & 2014

Coordinated a wide variety of U.S. support for the *ad hoc* International Tribunals – 1999-2002

Coordinated U.S. Government Support to the Milosevic Case (to include responsibility for planning and accompanying the FBI forensics deployments into Kosovo and engagement with the ICTY – 1999)

Handled more than 500 cases as a Military prosecutor – 1991-1995

Operational Lawyer in Northern Iraq – 1991 [deployed on Operation Provide Comfort to aid Kurds]

Notable Educational Achievements:

Designed and implemented one of the most innovative experiential and substantive courses in modern American legal education – [support to ongoing litigation in international criminal forums, human rights cases, and legal expertise to numerous governments, *inter alia* Uganda, Kosovo, Afghanistan, Iraq, U.S. State Department, Peru]

Led international criminal law aspects of the Judicial Training Institute for senior Iraqi jurists in Baghdad

Active in support of the American Bar Association and U.S. Department of State in Human Rights education to judges and counsel around the world and in support of ongoing litigation

Wrote, coordinated and led the Law of Armed Conflict Competition for Military Academies, International Institute of Humanitarian Law, San Remo, Italy – 2003, 2004, 2005.

Senior Member of the Defense Institute for International Legal Studies team teaching Iraqi jurists and drafting a constitution for a free Iraq – Nov. 2000

Led the first Rule of Law Symposium for Kosovar judges – June 1999 [later provided legal and technical expertise in developing the Transitional Justice mechanisms in Kosovo]

Planned and executed the Human Rights and Rule of Engagement Training for all CARICOM Multinational Forces and International Police Officers entering Haiti – 1993

Previous Academic Positions:

Associate Professor, Department of Law, U.S. Military Academy, West Point, N.Y. – 2002-2005

Professor of International and Operational Law, International and Operational Law Department, Judge Advocate General's School, Charlottesville, VA – 1996-1999

Other Professional Experience:

* Senior Advisor to the United States Ambassador-at-Large for War Crimes Issues, Office of War Crimes Issues, U.S. Department of State (2001-2002)
* Special Advisor to the United States Ambassador-at-Large for War Crimes Issues, Office of War Crimes Issues, U.S. Department of State (1999-2000)
* Brigade Judge Advocate, 194th Armored Brigade (Separate) (1993-1995)
* U.S. Army Special Forces Command (Airborne), Fort Bragg, N.C. (1992-1993)
* Group Judge Advocate, 7th Special Forces Group (Airborne), Fort Bragg, N.C. (1992)

Publications [selective listing from nearly 100 items, full listing available upon request]:

Books & Book Chapters

THE UNITED STATES DEPARTMENT OF DEFENSE LAW OF WAR MANUAL: COMMENTARY AND CRITIQUE (Cambridge University Press, forthcoming 2018)

Jus Post Bellum and Proportionality, in JUS POST BELLUM AND THE JUSTICE OF PEACE, (Carsten Stahn, *et. al.* eds., Oxford University Press, chapter forthcoming 2019)

A Synthesis of Community Based Justice & Complementarity, in CONTESTED JUSTICE: THE POLITICS AND PRACTICE OF INTERNATIONAL CRIMINAL COURT INTERVENTIONS 122 (Carsten Stahn, *et. al.* eds., Cambridge University Press 2015) (revised chapter forthcoming in 2d edition 2018)

PROPORTIONALITY IN INTERNATIONAL LAW, with Larry May, W. Alton Jones Professor of Philosophy, Vanderbilt University (Oxford University Press, 2014)

Charging War Crimes: Policy & Prognosis, in THE LAW AND PRACTICE OF THE INTERNATIONAL CRIMINAL COURT, Chapter 29, 732 (Carsten Stahn ed., Oxford University Press 2015)

The Death Penalty and the Iraqi Transition: Lessons of a Lost Opportunity, in THE POLITICS OF THE DEATH PENALTY 172 (Madoka Futamura & Nadia Bernaz, eds., Routledge Press 2013)

The Quest for Constructive Complementarity, in THE ICC AND COMPLEMENTARITY: FROM THEORY TO PRACTICE 304 (Carsten Stahn & Mohammed El Zeidy eds., Cambridge University Press 2011)

ENEMY OF THE STATE: THE TRIAL AND EXECUTION OF SADDAM HUSSEIN [co-authored with Professor Michael Scharf] 2008, St. Martin's Press – [Book of the Year, American Branch of International Association of Penal Law]

Implementing International Law: A Qualified Defense of the Al Dujail Trial, in 9 YEARBOOK OF INTERNATIONAL HUMANITARIAN LAW 2006, 117 (T. McCormack & Avril McDonald, eds. 2008)

Articles & Shorter Pieces

Reframing the Proportionality Principle, 51 VAND. J. TRANSNAT'L L. 867 (2018)

Back to the Future: Reflections on the Advent of Autonomous Weapons Systems, 47 CASE W. RES. J. INT'L L. 5 (2015)

Introductory Note to the Department of State Rewards Program Update and Technical Corrections Act of 2012, 52 I.L.M. 861 (2013)

Evolving Equality: The Development of the International Defense Bar, 47 STAN. J. INT'L L. 379 (2011), [2011 Article of the Year, American Branch of International Association of Penal Law]

Illustrating Illegitimate Lawfare, 43 CASE W. RES. J. INT'L L. 255 (2011)

The Chameleon Court: The Changing Face of the ICC, 27 LAW IN CONTEXT 5 (No. 1, 2009)

Exceptional Engagement: Protocol I and a World United Against Terror, 42 TEX. INT'L L. J. 323 (2009)

The Anfal Genocide: Personal Reflections and Legal Residue, 40 VAND. J. TRANSNAT'L L. 1521 (2007)

Introductory Note to Extraordinary Chambers in the Courts of Cambodia Provisional Detention Order Against Kaing Guek Eav, 46 I.L.M. 911 (2007)

A Near Term Retrospective on the Al-Dujail Trial & The Death of Saddam Hussein, 17 TRANS'L L. & CONTEMP. PROBS. 101 (Winter 2008)

Comparative Complementarity: Domestic Jurisdiction Consistent with the Rome Statute of the International Criminal Court, 167 MIL. L. REV. 20 (Mar. 2001) [Recipient, ABA Military Writing Award – 2002]

40TH ANNIVERSARY CONFERENCE PANEL: The International Criminal Court Preparatory Commission: The Way It Is & The Way Ahead, 41 VA. J. INT'L L. 20 (Fall 2000)

Continuum Crimes: Military Jurisdiction over Foreign Nationals Who Commit International Crimes, 153 MIL. L. REV. 1 (1996)

Mame Mandiaye Niang (Senegal)

I. PERSONAL DETAILS

Name: Mame Mandiaye Niang

Date of Birth: September 20, 1960

II. WORKING BACKGROUND

2016 to date — Director of Criminal Affairs and Pardons in the Senegalese Ministry of Justice. The position entails among others, extensive normative work on criminal substantive and procedural laws, negotiating treaties on behalf of Senegal, overseeing the implementation by the prosecutors of the Government's criminal policy across the country, drafting guidelines and instructions to ensure the uniform construction and application of the criminal law in the country.

2013-2016 — Judge at the Appeals Chamber of ICTY and ICTR. Assigned to the *Popovic et al* case, one of the largest. Adjudicated over a first instance case as well.

2011-2013 — UNODC Regional Representative for Southern Africa. Mission entailed among others, cooperation with States, particularly those of the SADC Regional entity, to bring their laws in line with the main narcotic regulatory international instruments, the UN Convention Against Corruption, the UN Convention Against Transnational Organized Crimes and its protocols on human trafficking and smuggling of migrants; training of law enforcement officers, prosecutors and judges.

1997-2011 — Worked at the International Criminal Tribunal for Rwanda (ICTR) in different capacities including as a Legal Officer and Senior Legal Officer in Chambers, advising the judges on a wide range of legal issues and supervising Legal Officers. Served as the Registrar's Special Assistant, providing him advice on policy, legal, administrative and financial matters, representing him and his views at all forums whenever required and preparing draft memoranda, communication and policy papers, making submissions on his behalf to different committees including before budget bodies and auditors.

1993-1997 — Trial Attorney attached to the Prosecutor General (PG) of the Supreme Court of Senegal. Assignment entailed among others, conducting legal research, writing briefs and speeches and litigating cases in court.

1990-1993 — Trial Attorney at the Dakar High Court (Tribunal Regional). Assignments included among others, submitting legal briefs, directing judicial officers, litigating cases and enforcing sentences.

1987-1990 — Judge at the Regional Tribunal of Dakar. Adjudicated over criminal offenses and civil cases.

III. OTHER FIELDS OF EXPERTISE

2004-2005 — Guest Lecturer on International Humanitarian Law at the Université Nationale du Rwanda and at the Senegalese "Centre de Formation Judiciaire" (Judicial Training Center)

1995 – 1997	Lecturer in Criminal Law at the Senegalese "Centre de Formation Judiciaire" (Judicial Training Center)
1992 – 1997	Guest Lecturer in Criminal Law at the "Ecole Nationale des Assistants et Educateurs Spécialisés" (Training School for Educators and Welfare Officers)
	Expert, Resource Person of the NGO "Réseau Africain pour le Développement Intégré" (RADI). In that capacity I designed and executed programmes of sensitization at the grassroots level in the legal field.
1989-1997	Expert-Member of the Senegalese Committee on Human Rights.
	Member of the Senegalese Section of the International Association of Criminal Law.
1993-1994	Member and Reporter of the Senegalese Law Revision Commission in charge of adapting the domestic criminal legislation to conform to international standards.

III. EDUCATIONAL BACKGROUND

1985-1987	Certificate of Ecole Nationale d'Administration et de Magistrature (ENAM) with distinction (Head of the list)
1981-1985	Université de Dakar, Faculté de Droit. Master in Private Law, with distinction (Head of the List)

IV. LANGUAGES

Fluent in French and English.

V. PUBLICATIONS

I have extensive publications in selective law reviews, particularly in criminal law and international humanitarian law, which include but are not limited to the following:

"Le TPIR... Et si la contumace était possible" Article published in the « Revue Générale de Droit International Public » April-June 1999 N. 2 Edition A. Pedonne 13, Rue Soufflot Paris-France.

« Les Obligations du Procureur face à la défense devant le Tribunal pénal international pour le Rwanda ». Article published in the « Revue de Science Criminelle et de Droit Comparé ; April-June 2001, Edition Dalloz Paris-France.

"What Approach for Law Reform and Revision? The Senegalese experience". Published by the US Embassy in Rwanda. Communication presented at the International Seminar on Law Reform and Revision; "Kibuye (Rwanda) March 2002"

"The Role of the Judiciary in the Electoral Process"; Published by the US Embassy in Rwanda. Communication presented at the International Seminar on Law Reform and Revision; "Kibuye (Rwanda) March 2002"

"Good Governance of the Judiciary". Published by the US Embassy in Rwanda. Communication presented at the International Seminar on Law Reform and Revision; "Kibuye (Rwanda) March 2002"

"Comment on new adopted Rules 11 *bis* and 92 *bis* of ICTR Rules of Procedure and Evidence, New tools to serve the Exit Strategy." ICTR Bulletin August 2002.

"Lessons to be learnt from the Judgement confirming the acquittal of Ignace Bagilishema". *A comment on the different aspects of the standard for appeal, the*

admissibility of out of court evidence, the command responsibility in the customary international law etc.... ICTR Bulletin, February 2003

"The Right to Counsel before the International Criminal Tribunal for Rwanda" published in the Criminal Law Forum, volume 13, No. 3, 2002 (CLF) Kluwer Academic Publishers, Netherlands.

« La jurisprudence des Tribunaux internationaux en matière de Crimes Contre l'Humanité et de Crimes de Guerre ». Communication presented during the international seminar held in Arusha and co-organized by « Ligue des Droits de la Personne dans la Région des Grands Lacs (LDGL) and the NGO Human Rights Watch; March 2003.

"The Right to fair trial versus the right to be tried without undue delay *"; A comment on two decisions of Trial Chamber I and II applying a new Rule 15 bis which enables a Trial Chamber to proceed with a part-heard case with a new judge despite the refusal of the defence.* Article published in the ICTR Bulletin, August 2003.

"Promoting Women's Rights through Ad Hoc Tribunals" published in the Bulletin of the London based NGO Interights (2004) Volume 14, #4 page 74;

« *Retour à la Cour suprême au Sénégal, Acte de bon sens ou régression ? témoignage d'un insider* ». publié dans le journal «Le quotidien » Avril 2008.

« L'Affaire de corruption « Segura », une occasion idéale pour remettre les pendules à l'heure. Article publié dans le journal sénégalais « Le quotidien » janvier 2009. Segura »

« Réforme de la loi sur le barreau, une loi pour les mandarins », publié au journal quotidien, juillet 2009.

"The Senegalese Legal Framework for the Prosecution of International Crimes" Journal of International Criminal Justice 7 (2009) 1047-1062, Oxford University Press, 2009.

Co-author of the Book "Defense in International Criminal Proceedings; Cases, Materials and Commentary". Transnational Publishers; 2006.

Co-author of the Book "Protecting Humanity, Essays in International Law and Policy in Honour of Navanethem Pillay" Martinus Nijhoff Publishers Leiden-Boston 2010.

"Repression versus Decriminalization on Drugs: A plea to Uphold the International Legal Framework" Presented at the University of Pretoria; February 2013.

"Africa and the Legitimacy of the International Criminal Court in Question" Journal International Criminal Law Review; Volume 17, Issue 4, pp 615-624 July 2017, Re-published in "Strengthening the Validity of International Criminal Tribunals; Brill, Leiden, Boston July 2018.

In addition, I have written a few dozens of plays in different legal topics, in my capacity as Expert and Resource Person of the NGO Réseau Africain pour le Développement Intégré (RADI). Those scenarios, aimed at sensitizing people on legal issues relevant to their daily lives, have been broadcast on the Senegalese National Television.

VI: OTHERS

Computer literate. Proficient in the current softwares associated with Windows Microsoft or Mac like Word, Excel, PowerPoint, Lotus and Microsoft Outlook, etc.

Elyakim Rubinstein (Israel)

2018	Appointed Associate Professor of Public Policy at the Hebrew University in Jerusalem and Distinguished Professor at the Touro College and University, New York
June 2017	Retired upon reaching the mandatory age of retirement from the bench (70).
2015	Appointed Deputy President of the Supreme Court.
2012-2013	Served as Chairman of the Central Elections Committee.
2004	Appointed Justice of the Supreme Court of Israel.
1997-2003	Served as the Attorney General of Israel. In this position, he participated in negotiations with Syria (in 1999-2000) and in the Camp David Summit with the Palestinians in 2000, and as the head of the Israeli delegation to conferences on the subjects of Intolerance and Anti-Semitism (2001-2003).
1995-1997	Served as Judge at the Jerusalem District Court.
1994-1995	Served as Legal Counsel to the Ministry of Defense and Assistant to the Prime Minister, and simultaneously as chair of the Committee supervising negotiations on Agreements for implementation of the Peace Treaty with Jordan.
1986-1994	Served as Government Secretary for four different governments. As part of that position, he headed the legal team working with U.S. Government and Congress officials concerning the investigation into the Iran-Contras affair; he headed negotiation teams on the Memorandum of Understanding between the Government of the United States and the Government of Israel on Strategic Cooperation, and negotiations on various legal issues in the field of defense. He was the head of the Israeli delegation that negotiated with the Jordanian-Palestinian delegation in Madrid and Washington, and head of the Israeli delegation for negotiations on the Israel-Jordan Peace Treaty. He served as the first chairman of the Israel Anti-Drug Authority, and as the first chairman of the Government Forum to Monitor Anti-Semitism.
1977-1986	Worked in the Ministry of Foreign Affairs, as Assistant to the Minister of Foreign Affairs and Deputy Director-General, Legal Advisor to the Ministry of Foreign Affairs, and Minister (Deputy Chief of Mission) in Washington, D.C. As part of his diplomatic service, he participated in the negotiations on the Egypt-Israel Peace Treaty at Camp David and Washington in 1978-1979, and later on negotiations on normalization of the relations with Egypt and on the Palestinian autonomy. He was responsible for the office of implementing the Peace Treaty with Egypt. In addition, he participated in negotiations with Lebanon on the 1983 Agreement, and in negotiations on strategic cooperation with the United States, with the personal title of Ambassador.
1976-1977	Deputy Legal Counsel in the Ministry of Defense, and Legal Counsel to the Rehabilitation Division of the Ministry.

1973-1977	Worked in the office of the General (Legal) Counsel to the Ministry of Defense.
1972	Admitted to the Israeli Bar, after interning with the Office of the State Attorney, in the Tel Aviv District Court and in the Ministry of Defense.
1966-1970	Served in the Israel Defense Forces. As a reservist, he served as a judge of the Military Court in Judea and Samaria.

Justice Rubinstein was born in Tel Aviv in 1947.

Justice Rubinstein graduated magna cum laude from the Hebrew University in Jerusalem, with Bachelor's degrees in Hebrew Language and Arabic Literature and Language in 1967 and in Law in 1969. He obtained a Master's degree magna cum laude in Contemporary Jewry in 1974.

In 1981 Justice Rubinstein was a visiting scholar at Harvard Law School

In 1996 Justice Rubinstein was the recipient of the Gabriel Peace Prize for his part in the Peace Treaty with Jordan.

In 2004 Justice Rubinstein was a visiting fellow at the Woodrow Wilson Center in Washington D.C.

In 2011 Justice Rubinstein was a visiting fellow at the Hoover Institution, Stanford University

In 2017 Justice Rubinstein was awarded the Jewish Law Award by the Israeli Bar Association

In 2018 he was awarded the President Herzog Award for special contribution to the State of Israel.

Justice Rubinstein was awarded honorary doctorates by Yeshiva University in New York, the Jewish Theological Seminary in New York, and Bar-Ilan University.

Justice Rubinstein has written books and articles on the subject of the Israel Supreme Court, public law in Israel, the history of Israel during the British Mandate, the history of the Arab-Israeli Conflict, and the peace process.

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Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes*

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Baskut Tuncak, submitted pursuant to Human Rights Council resolution 36/15.

* The present report was submitted after the deadline in order to reflect the most recent developments.

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Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes

Summary

In his first report to the General Assembly, the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes introduces the mandate, highlights recent activities and offers recommendations for ongoing international discussions. The Special Rapporteur explains the link between the mandate and achieving the Sustainable Development Goals and brings to the fore the need for a stronger, more comprehensive global framework to protect human health from a toxic environment to help address the injustices resulting from divergent standards of protection between countries. The Special Rapporteur offers recommendations for the post-2020 framework for toxic chemicals and waste that in his view would strengthen the ability of the global community to protect human rights from toxic exposures and highlights the potential contribution of the business and human rights discourse to the issues at hand.

I. Introduction

1. The mandate on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes is in large part about the extent to which we have a right to control the entry of hazardous substances and wastes into our bodies. The vast majority of the global population lives on the wrong side of a toxic divide, exposed without their consent to hazardous substances and wastes that increase their likelihood of developing diseases and disabilities throughout their lives. For example, 91 per cent of the world's population lives in areas that exceed World Health Organization (WHO) guidelines for air pollution.[1]

2. Pollution is estimated to be the largest source of premature death in the developing world,[2] approximately three times more than HIV/AIDS, tuberculosis and malaria combined. Air pollution kills about 7 million people annually, amounting to 1 in 9 deaths, with 4.2 million deaths from ambient outdoor air and 3.8 million from exposure to smoke from dirty cookstoves and fuel.[3] Workers continue to be exploited by exposure to unsafe levels of toxic chemicals and other hazardous substances. Over 2 million workers die every year from occupational diseases, nearly 1 million from toxic exposures alone (see A/HRC/39/48). Many of the figures of death, disease and disability are believed to be an underestimation. The transfer of polluting industries, manufacturing activities and supply chains from wealthier countries to those with lower levels of protection contributes greatly to these adverse impacts on life and health.[4]

3. Improved technologies and methodologies have helped to visualize the pervasive nature of our invisible and incessant exposure to hazardous substances in the air we breathe, the water we drink, the food we eat, our homes and the places we work, as well as the countless products we consume. Through these advancements, our understanding of the adverse impacts of hazardous substances and wastes on our "right to ... adequate conditions of life"[5] has expanded, and a misperception of so-called harmless exposures has been uncovered.

4. It is now well demonstrated that babies around the world are born "pre-polluted" (A/HRC/33/41). Over 200 hazardous substances have been detected in umbilical cords and the placenta, including toxic constituents of consumer products, food packaging and air pollution. Not only are children exposed during sensitive periods to a multitude of substances with known and unknown toxicity from a plethora of sources, but they are also exposed at higher levels than adults (ibid). Millions of children are deprived of their right to maximum development by exposure to hazardous substances before they can even begin to exercise their fundamental right to be heard.[6]

[1] See www.who.int/airpollution/en/.

[2] See the report of the Lancet Commission on pollution and health.

[3] See www.who.int/airpollution/en/; see also A/HRC/30/40.

[4] See, for example, Haikun Wang and others, "Trade-driven relocation of air pollution and health impacts in China", *Nature Communications*, vol. 8, article No. 738 (2017).

[5] In 1972, the United Nations Conference on the Human Environment proclaimed the common conviction that people have the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being and that they bear a solemn responsibility to protect and improve the environment for present and future generations. (Declaration of the United Nations Conference on the Human Environment, A/CONF.48/14/Rev.1, part one, chap. I).

[6] Convention on the Rights of the Child, art. 12.

5. Over time, exposure levels of concern have been revised lower as investigators have used more sensitive measures and better study designs.[7] For example, before the mid-1960s, a blood lead level above 60 micrograms per decilitre (µg/dL) was considered toxic. By 1978, the defined level of toxicity had declined 50 per cent to 30 µg/dL. Since then the "safe" level of exposure has progressively been revised lower. Today national bodies, such as the United States Centers for Disease Control and Prevention and WHO, consider there to be no safe level of childhood lead exposure, with exposure of 5 µg/dL associated with neurobehavioral damage.[8] It was estimated in 2016 that lead exposure globally accounted for 540,000 deaths and 13.9 million years of healthy life lost.[9]

6. Through other advancements, we have a clearer picture of the intricate subtleties of how chronic exposure to a multitude of toxic substances during childhood and other sensitive periods of development can manifest over time into various adverse health outcomes, such as cancer, diabetes, birth defects, reduced intelligence and learning disabilities, asthma and other respiratory diseases. Experiments have demonstrated that exposures to combinations of substances at levels not predicted to have adverse effects can result in adverse effects. This has cast doubt on the conventional paradigm that seeks thresholds for no observed adverse effects as the basis for defining safety.

7. Seemingly every day we continue to uncover the myriad of ways we are subjected to a vast human experiment of incessant exposure to toxic substances, contrary to the clear right not to be subject to scientific experimentation without consent.[10] Reports continue to illustrate trends of increasing incidences of health impacts arising from exposure to hazardous substances, but leave unanswered which exposure or exposures are responsible.[11] Illustrating the existential dimension of the problem is the decades of evidence of declining sperm counts observed in countries around the globe.[12]

8. Protection from exposure to hazardous substances is fundamentally about the rights to life, non-discrimination and bodily integrity, and is dependent on the realization of everyone's right to information, meaningful participation and freedoms of association and assembly, as well as the right to an effective remedy, among others (see, for example, A/HRC/36/41).

9. The issue of exposure is also deeply interwoven with the discourse on our rights to health, safe food and water, adequate housing and safe and healthy working conditions, as well as a healthy environment, to name a few. However, in relation to these rights, it must be emphasized that the Committee on Economic, Social and Cultural Rights interprets the obligations and responsibilities of duty bearers as being

[7] Lead is a poison that affects virtually every system in the body and is particularly harmful to the developing brain and nervous system of fetuses and young children (see Centers for Disease Control and Prevention, available at www.cdc.gov/nceh/lead/publications/books/plpyc/chapter2.htm.

[8] WHO, *Childhood Lead Poisoning*, Geneva, 2010, available at www.who.int/ceh/publications/leadguidance.pdf.

[9] WHO, "Lead poisoning and health", fact sheet, 22 August 2018, available at www.who.int/news-room/fact-sheets/detail/lead-poisoning-and-health.

[10] International Covenant on Civil and Political Rights, art. 7.

[11] See, for example, United States, Environmental Protection Agency, *America's Children and the Environment*, 3rd ed. (Washington, D.C., January 2013).

[12] Hagai Levine and others, "Temporal trends in sperm count: a systematic review and meta-regression analysis", *Human Reproduction Update*, vol. 23, No. 6 (November–December 2017). Available at https://doi.org/10.1093/humupd/dmx022.

to prevent and minimize exposure to hazardous substances and to respect the individual's right to bodily (physical) integrity.[13]

10. What we know today, including existing evidence of harm, knowledge of risks and the inherent uncertainties, requires a human rights-based approach that emphasizes the duty and responsibilities of States and businesses to prevent and minimize exposure. While science plays an essential role in advancing protection from exposure, a perverse version of a "science-based approach" has prevented progress in many cases regarding the prevention and minimization of exposure,[14] contrary to human rights standards.

11. There are ample opportunities to reduce avoidable and unjustified exposures to hazardous and potentially hazardous substances. From both technological and policy perspectives, we have the tools to prevent and minimize exposure, often at levels below what is identified as a health risk (A/HRC/36/41). The particularly heinous nature of the exploitation of workers and communities through exposure is that there are almost always alternatives to prevent or minimize exposure. Solutions to this abuse of human rights are available, should States choose to compel businesses to adopt them.

12. To this end, efforts by States to move towards a "non-toxic environment" for present and future generations are commendable. Such initiatives are highly compatible with the State's duty to respect, protect and fulfil the many interrelated and interdependent human rights implicated by hazardous substances and wastes. For example, Sweden's national objective of a non-toxic environment, adopted by the Government with the participation of civil society and businesses, seeks to ensure that "total exposure to chemical substances via all sources of exposure is not harmful to people or biodiversity."[15] It also seeks to ensure that knowledge and information is available and accessible, consistent with the right to information.[16] And, it seeks to ensure the remediation of contaminated sites, which is part of an effective remedy.[17] A European Union-wide non-toxic environment strategy, due in 2018, presents a welcome opportunity to help close many protection gaps for children and other vulnerable groups.[18]

13. However, more is required, nationally, regionally and globally. The exposure of the most vulnerable in society to toxic exposure is a global problem, in which we are all to some degree complicit, whether as policymakers, employers or consumers.

II. Recent activities of the mandate

14. This is the first report of the mandate holder to the General Assembly since the establishment of the mandate in 1995 by the former Commission on Human Rights. Over the years, the mandate has evolved through successive resolutions of the Human Rights Council to examine the impacts of hazardous substances and wastes throughout their life cycles, from extraction to production, use, emission and final

[13] Committee on Economic and Social Rights, general comments No. 14 and No. 18.

[14] David Michaels, *Doubt is Their Product: How Industry's Assault on Science Threatens Your Health* (Oxford University Press, New York, 2008).

[15] Swedish Environmental Protection Agency, "Specifications for a non-toxic environment", available at www.swedishepa.se/Environmental-objectives-and-cooperation/Swedens-environmental-objectives/The-national-environmental-objectives/A-Non-Toxic-Environment/Specifications-for-A-Non-Toxic-Environment/.

[16] Ibid.

[17] Ibid.

[18] European Commission, 7th Environment Action Programme, "Study for the strategy for a non-toxic environment", final report, p. 122. Available at http://ec.europa.eu/environment/chemicals/non-toxic/pdf/NTE%20main%20report%20final.pdf.

disposal. Under the mandate, issues of both occupational health and environmental health perspectives have been examined. The most recent reports of the current mandate holder to the Human Rights Council are summarized below.

A. Reports to the Human Rights Council

1. Workers' rights (2018)

15. Exploitation can take many forms. A particularly vicious form of exploitation is the exposure of workers to toxic substances.

16. In September 2018, the Special Rapporteur presented a report highlighting the global crisis confronting workers exposed to toxic chemicals (see A/HRC/39/48 and A/HRC/39/48/Corr.1). He outlined key challenges and proposed 15 principles to help States, businesses and other key actors to protect workers from toxic occupational exposures and to provide remedies for violations of their rights. The report includes a detailed annex on various cases addressed by the mandate since 2007.

17. Global estimates from the International Labour Organization show that over 2,780,000 workers die from unsafe or unhealthy conditions of work each year. Despite clear human rights obligations relating to the protection of their health, workers around the world find themselves in the midst of a crisis — it is estimated that one worker dies at least every 30 seconds from exposure to toxic chemicals, pesticides, radiation and other hazardous substances. Yet incidences of exposure are grossly underreported in some contexts and countries.

18. Every worker has the right to dignity, ethical treatment and respect, as well as protection from conditions of work that are dehumanizing or degrading. The right to safe and healthy work is a right in itself; however, it also encompasses many other interrelated and interdependent human rights of workers, including the rights to life, health, bodily (physical) integrity and security of the person. They are indivisible from the rights to information, meaningful participation and freedoms of expression, assembly and association, as well as the right to an effective remedy.

2. Good practice guidelines (2017)

19. In September 2017, the Special Rapporteur delivered a long-standing request of the Human Rights Council: a report on guidelines to good practices (see A/HRC/36/41). These guidelines are intended to help States, businesses, civil society, trade unions and other key actors to identify and address fundamental problems that give rise to human rights abuses due to toxics.

20. The guidelines to good practices build on the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, recognizing that the challenges presented are most typically related to business conduct. Thus, the report is divided into three sections, namely the duties of States, the responsibilities of businesses, and access to justice and remedy, concluding with recommendations with respect to each.

3. Pesticides and the right to food (2017)

21. The mandate holder collaborated with the Special Rapporteur on the right to food to provide an account of global use of hazardous pesticides in agriculture and its impact on human rights (see A/HRC/34/48).

22. The report found that while scientific research confirms the adverse effects of pesticides, proving a definitive link between exposure and human diseases or conditions, or harm to the ecosystem, presents a considerable challenge. This

challenge has been exacerbated by a systematic denial, fuelled by the pesticide and agroindustry, of the magnitude of the damage inflicted by these chemicals, and aggressive, unethical marketing tactics that remain unaddressed.

23. The report notes with concern the problem of double standards of protection from pesticides between countries. Many low- and middle-income countries continue to use hazardous pesticides banned by high-income countries, which in some cases continue to export hazardous pesticides for the production of agricultural products that are then imported back. This transfer of polluting industries and hazardous work is exploitation. The volume of pesticide consumption in developing countries is large and has rapidly increased, with regular reports of serious impacts to the health of workers, local communities and ecosystems.

24. Without or with minimal use of toxic chemicals, it is possible to produce healthier, nutrient-rich food, with higher yields in the longer term, without polluting and exhausting environmental resources. The solution requires a holistic approach to the right to adequate food that includes phasing out dangerous pesticides and enforcing an effective regulatory framework grounded on a human rights approach, coupled with a transition towards sustainable agricultural practices that take into account the challenges of resource scarcity and climate change.

25. To this end, it is recommended in the report that States work towards a comprehensive, binding treaty to regulate hazardous pesticides throughout their life cycle, taking into account human rights principles. In the interim, it also recommends several good practices for States at the national level.

4. Rights of the child and childhood exposure (2016)

26. In 2016, the Special Rapporteur described the urgent need for States and businesses to meet their obligations and responsibilities under the Convention on the Rights of the Child regarding air, water and soil pollution, as well as the presence of toxic chemicals in food and consumer products (see A/HRC/33/41). States have a human rights obligation to first and foremost prevent childhood exposure to pollution and toxic substances, with mitigation measures only if prevention is not possible.

27. Children today are born "pre-polluted" with numerous contaminants that have an impact on their rights to survival and development, to be heard, to physical integrity and to health, among others. Representative studies have measured hundreds of toxic and otherwise hazardous chemicals in children in-utero and after birth through their mother's exposure. Exposure to toxics and pollution continues incessantly after birth. While the studies primarily come from certain countries, every child in every country is a victim of this "toxic trespass" to varying degrees. Many of these exposures are transboundary in origin, including emissions into air and water and global production, consumption and disposal patterns, requiring global action.

28. Paediatricians refer to a "silent pandemic" of disability and disease associated with exposure to toxics and pollution during childhood, many of which do not manifest themselves for years or decades after exposure. Over one million child victims die prematurely before the age of 5 each year, with estimates of premature death from air pollution alone exceeding 500,000. However, this is only the tip of the iceberg, with countless millions affected by preventable diseases and disabilities such as cancer, diabetes, learning disabilities and birth defects later in life. These health impacts exert massive economic costs on governments and individuals, which questions the arguments against stronger protections simply because of the possible impacts on economic growth.

5. Right to information (2015)

29. In September 2015, the current Special Rapporteur presented his first full thematic report to the Human Rights Council on the right to information in the context of hazardous substances and wastes (A/HRC/30/40). Information is an enabler of many human rights that are affected by hazardous substances and wastes. Information is crucial to preventing human rights violations and abuses resulting from exposure to hazardous substances and wastes and realizing the right of victims of exposure to an effective remedy. However, vital information on hazardous substances and wastes is frequently unavailable and inaccessible, including information about their hazardous properties, exposure levels and incidences of diseases and other adverse health impacts.

30. The enjoyment of the right to information is critical in the context of toxics, in order to prevent adverse impacts, to ensure the realization of the right to freedom of expression and to enable individuals and communities to participate in decision-making processes and to seek and obtain remedy. Health and safety information about toxic chemicals must never be confidential. Information must be available, accessible, functional and consistent with the principle of non-discrimination in order for human rights to be respected, protected, enjoyed and fulfilled. Despite notable improvements in many countries over recent decades, the right to information remains insufficiently realized in the area of hazardous substances and wastes, particularly with respect to protecting the most vulnerable from the adverse impacts of exposure, whether from consumer products, at the workplace or via food, water, air or other sources.

31. The report clarifies the duties and responsibilities of States and businesses regarding the right to information in order to protect human rights affected by toxics. States are duty-bound to generate, collect, assess and update information; effectively communicate such information, particularly to those disproportionately at risk of adverse impacts; ensure confidentiality claims are legitimate; and engage in international cooperation to ensure that foreign Governments have the information necessary to protect the rights of people in their territory. In discharging their duty to conduct human rights due diligence, businesses are responsible for identifying and assessing the actual and potential impacts of hazardous substances and wastes, either through their own activities or as a result of their business relationships, and to communicate information to other businesses, governments and the public effectively.

B. Illustrative cases

32. Through communications to States and businesses, as well as country visits, the mandate holder has worked on various cases illustrating the impacts of toxics and pollution throughout the life cycle of consumption and production. These impacts are visible across various economic sectors and industrial activities. They illustrate violations and/or abuse of various human rights, particularly of the most vulnerable in society, including the rights of the child, older persons, workers, indigenous peoples, the poor and migrant and minority communities. The categories are hard to define, as the issues and sectors are often interlinked.

1. Air pollution

33. Air pollution is a major source of exposure to hazardous substances and wastes. In 2017, the Special Rapporteur issued a statement calling for strong, urgent action by States, including legislation and enforcement of corporate accountability, to ensure that people around the world can enjoy the human rights to life and health in environments free from contamination.[19] The call was instigated by the findings of

[19] The statement was subsequently endorsed by several other special rapporteurs and independent experts of the Human Rights Council. See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?LangID=E&NewsID=21222.

the Special Rapporteur during several country visits, estimates by WHO of 7 million premature deaths due to air pollution and previous investigations into the realization of the rights of the child.

34. During his visit to the Republic of Korea, the Special Rapporteur highlighted the case of humidifier sterilizers marketed and sold without adequate investigation of their risks to human health and life (see A/HRC/33/41/Add.1). Unknowingly, consumers added the toxic product to water tanks of humidifiers, hugely popular in the Republic of Korea, resulting in toxic indoor air. The chemical mixture was marketed on the premise that it would promote health and well-being.

35. The actual number of victims is unknown and is still being evaluated. By December 2015, the Government had recognized that 95 people had died and 221 had suffered adverse health impacts after inhaling hazardous chemicals, mostly young children, pregnant women and the elderly. According to the Korea Environmental Industry and Technology Institute, a total of 6,179 individuals had been registered as victims by 26 October 2018. The number includes 1,357 cases of deceased individuals.[20] The largest seller of the humidifier sterilizers was the subsidiary in the Republic of Korea of a pharmaceutical company from the United Kingdom of Great Britain and Northern Ireland that certainly should have known the risks of inhaling chemical substances without evidence regarding their effects on health or their safety, regardless of the fact that it was in compliance with certain laws at the time. While a few companies have apologized, the mandate holder remains concerned regarding the inadequate accountability of the chemical companies that sold the chemical ingredients to companies marketing the humidifier sterilizers.

36. During various country visits, the issue of outdoor air pollution and its adverse health impacts, particularly for women of reproductive age, children and older persons, has been of grave concern. During a visit in 2017, the Special Rapporteur observed how air pollution continues to plague the United Kingdom (see A/HRC/36/41/Add.2). Over 40,000 premature deaths per year were estimated to occur in the country, with over 9,000 in London alone.

37. Recently, a mother delivered a petition with 100,000 signatures calling for a new inquest into her daughter's death, which she believes to be due to her daughter's exposure to air pollution. Ella died in February 2013 after suffering from extreme asthma and seizures for three years. During that time local air pollution levels breached European Union legal limits. Permissible exposure limits in member States of the European Union for various air pollutants currently exceed levels recommended by WHO. The case is important in many respects, including the challenge faced by victims of air pollution to establish a sufficient causal linkage between health impacts and air pollution exposure to access an effective remedy.

2. Contaminated land

38. The situation faced by Roma, Ashkalija and Egyptian families displaced during the Kosovo conflict and housed by the United Nations in camps constructed on lead-contaminated toxic wasteland between 1999 and 2013, is of concern to the Special Rapporteur. The affected communities, including children, continue to suffer from long-term, serious damage to their health as a result of poisoning. They continue to live in conditions of economic hardship and social deprivation, hampering their access to adequate medical services. The Special Rapporteur addressed an open letter to the Secretary-General concerning his 2017 decision to establish a trust fund charged with implementing community-based assistance projects, which would benefit the affected communities, inquiring about the progress and functioning of the

[20] See www.healthrelief.or.kr/home/content/stats01/view.do.

trust fund.[21] Despite expressions of political support by Member States, no financial contribution has yet been received by the international community. The Special Rapporteur calls on the United Nations and its Member States to mobilize the necessary resources without further delay.

3. Water pollution and contamination

39. In 2016, the mandate holder sent a joint communication[22] to the Government of the United States of America and issued a public statement[23] with several other mandates holders regarding the situation of children suffering from lead contamination in Flint, Michigan, and elsewhere in the country. The case raised grave concerns regarding the injustice of pollution and contamination borne by poor and minority communities across the United States.

40. The Special Rapporteur issued numerous communications and statements regarding water pollution from the Formosa Ha Tinh Steel Corporation plant in April 2016 in Viet Nam. The resulting pollution discharge killed large volumes of fish on which local communities depended, both for sustenance and their livelihoods. Of grave concern is the harassment, detention and imprisonment of dozens of local journalists, bloggers and human rights defenders for expressing concern regarding the impacts of pollution and unhealthy working conditions, as well as the need for effective remedies. The Special Rapporteur together with other mandate holders addressed letters to the Government of Viet Nam, including regarding the conviction and sentencing of two human rights defenders, in what appeared to be retaliation for legitimate human rights work related to pollution caused by the toxic waste discharge.[24]

4. Agricultural production

41. The Special Rapporteur has been concerned about the impacts of pesticides and other hazardous substances used in and produced for agriculture, which raises concerns of exposure resulting from air pollution and water contamination, as well as direct exposures, particularly of workers.

42. Exposure of children using or otherwise exposed to pesticides and other toxic substances at work is one of the worst aspects of child labour. This is a major concern that is repeatedly brought to the attention of the mandate holder from cases around the world. A related concern is the exposure of women of reproductive age to pesticides and other toxic chemicals at work, potentially during the early stages of pregnancy, sometimes before they even know they are pregnant, subjecting their children to the risk of various adverse health impacts. In a recent communication regarding tobacco production in Zimbabwe,[25] at least 10 foreign companies were identified as sourcing tobacco from farms where children are reportedly using or

[21] See www.ohchr.org/Documents/Issues/ToxicWastes/LetterSGAshkaliEgyptianCommunities.pdf.

[22] See https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=18467. For replies from the State, see https://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=32453 and https://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=33284.

[23] See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=17139&LangID=E.

[24] See https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=23672. For the reply from the State, see https://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=34029.

[25] See https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=23765.

mixing pesticides.[26] These tobacco companies are based in China, Germany, Japan, Switzerland, the United Arab Emirates, the United Kingdom and the United States.[27]

43. During a recent visit to Sierra Leone (see A/HRC/39/48/Add.1), the Special Rapporteur observed that environmental impact assessments of a large-scale palm oil plantation, owned and operated by a Europe-based corporation, were devoid of meaningful information about pesticides use and their volumes from which to determine potential environmental and occupational risks. The Special Rapporteur was informed that the pesticides used included those disallowed from use in Europe and elsewhere, and is concerned by the limited capacity of the Government to monitor potential impacts of their use on health and water resources.

5. Extractive industries

44. The mandate holder continues to address numerous cases of alleged human rights violations and abuses as a result of the activities of extractive industries. In most cases, there are strong transnational links, whether related to foreign-owned operators or to resources that are processed and used in global supply chains.

45. These cases illustrate inadequate conduct of human rights due diligence for hazardous substances and wastes. In the case of the Mariana (also referred to as Samarco or Rio Doce) disaster, concerns were raised regarding the insufficiency of efforts to prevent what some have described as Brazil's worst environmental disaster. The flood of waste following the rupture of the dam killed at least 18 people and affected the lives of millions of people living along the 800 km Rio Doce watershed.[28] The mandate holder was particularly concerned with the lack of transparency by authorities and companies in disclosing crucial information regarding the danger posed by the dam to local communities and the unjustified subsequent statements that the waste spilled did not pose a health risk. Concerns continue to be raised regarding substantive and procedural aspects of the settlement and remedy process, including insufficient participation by affected communities and the inadequate progress made.[29]

46. In 2016, the mandate holder undertook an unofficial visit to Peru to assess the situation of the indigenous peoples in the Amazon who continue to grapple with decades of toxic waste left by oil companies in their territories, which has been the subject of various communications by the mandate holder. The Special Rapporteur remains concerned that the Argentina-based company Pluspetrol has not fulfilled its obligation to remediate both its own oil contamination and the contamination left by its predecessor in Lot 192 (formerly Lot 1 A/B) decades ago. New agreements were reached for continued extraction without the completion of remediation and pipelines for oil transportation are in desperate need of replacement, with over 50 alleged incidences of rupture and further contamination in the past three years alone.

6. Chemical industries

47. Various manufacturers of industrial chemicals, pesticides, pharmaceuticals and other chemical products have been linked with human rights abuses resulting from the toxicity of their products, from unsafe conditions at facilities to widespread human

[26] See the Office of the United Nations High Commissioner for Human Rights (OHCHR) communications database at https://spcommreports.ohchr.org/Tmsearch/TMDocuments.

[27] See OHCHR communications database at https://spcommreports.ohchr.org/Tmsearch/TMDocuments.

[28] See attps://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=14484.

[29] See https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=321. For the reply from the State, see https://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=2093.

contamination resulting from pollution, contamination and waste produced by their products. Over several decades, the global chemical industry has grown at astronomical rates, particularly in low- and middle-income countries.[30] The protection gaps and resultant impacts are apparent.

48. In 2015, a series of explosions in China killed at least 173 people, and resulted in over 700 non-fatal injuries. Large quantities of industrial chemicals were stored near residential areas without the knowledge of residents and regulators, and first responders entered the building without information about the type and amounts of chemicals stored. The Special Rapporteur called for tighter regulation and enforcement, highlighting the need for further realization of the right to information regarding hazardous substances.[31]

49. Many of the cases illustrate the challenge of securing an effective remedy, even in the clearest of correlations between business activities and impacts. In 1984, a toxic chemical leak killed over 6,000 people living near a toxic pesticide production facility in the town of Bhopal, India. Nearly 35 years after the disaster, the mandate holder continues to receive information on ongoing contamination of water and other resources. The inability of the community to gain access to an effective remedy and the impunity of various companies implicated in the disaster, including those that acquired the facility but deny any responsibility for the clean-up, is a seminal example of the exploitation of lower standards of protection in developing countries and the inordinate challenge facing victims to access an effective remedy.

50. The Special Rapporteur welcomed an announcement in 2014 by the Government of India that it would reconsider the official figures of people affected by the Bhopal disaster and provide additional compensation. However, financial compensation alone is not an effective remedy and will not stop the ongoing human rights violations resulting from Bhopal's toxic legacy. Information is provided regularly to the mandate holder of new victims of the Bhopal disaster who are born every day and suffer all their lives from adverse health impacts. The Special Rapporteur has called on all parties to ensure an effective remedy for the victims.[32]

7. Manufacturing and consumer products

51. Concerns have also been raised regarding exposure to toxic chemicals in the context of the manufacture, use and disposal of common consumer products, such as electronics, clothing, cosmetics, cleaning products and detergents.

52. For example, after an 11-year campaign for justice and accountability by victims, their representatives and other human rights defenders, Samsung Electronics recently agreed to arbitration over the case of 150–250 deceased and sickened workers who allege their health has been affected by exposure to toxic substances in the manufacture of certain electronic products in the Republic of Korea.[33] Although a positive step, this is only one company in one industry in one country.

8. Nuclear radiation

53. A topic of concern under the mandate has been nuclear waste from military activities and energy production. The former Special Rapporteur undertook a mission

[30] United Nations Environment Programme, *Global Chemicals Outlook: Towards Sound Management of Chemicals* (Nairobi, 2013).

[31] See https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=15347 and www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16332.

[32] See https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=19622 and www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15335&LangID=E.

[33] See https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23476&LangID=E; see also A/HRC/33/41/Add.1.

to the Marshall Islands to examine contamination resulting from years of nuclear weapon testing (see A/HRC/21/48/Add.1). The current mandate holder has also addressed the issue during a recent country visit to Kazakhstan, where approximately 400 nuclear bombs were detonated during tests by the former Soviet Union (see A/HRC/30/40/Add.1 and A/HRC/30/40/Add.1/Corr.1).

54. Seven years after the nuclear disaster in Fukushima, Japan, actions for the reconstruction and revitalization of Fukushima are in full implementation process, with evacuation orders lifted for most of the areas. In March 2017, housing subsidies reportedly stopped to be provided to self-evacuees, who fled from areas other than the government-designated evacuation zones.

55. Following the nuclear disaster, Japan raised the acceptable level of radiation for residents in Fukushima from 1 millisievert a year (mSv/year) to 20 mSv/year. The universal periodic review mechanism of the Human Rights Council recommended that the Government of Japan return acceptable levels of exposure to those in place before the Fukushima disaster. The Special Rapporteur has raised concerns with the Government on both the situation confronting residents, including children and women of reproductive age, who may return to areas with levels of radiation above 1 mSv/year, as well as concerns regarding the exposure of workers involved in the remediation of the prefecture.[34] The death of a remediation worker from lung cancer was recently recognized as resulting from exposure to radiation.

9. Waste

56. The issue of waste disposal, particularly the export of waste from wealthy countries to poorer countries, is a core element of the mandate. Perhaps no case illustrates the incredible audacity of certain businesses to exploit vulnerable communities quite like the case of the vessel Probo Koala. The owners of the ship, essentially a manufacturing facility, contracted a company of no repute to dispose of its toxic waste because they could not find a suitable price in Europe. The waste was disposed of in and around the city of Abidjan, Côte d'Ivoire, during the night, killing nearly 20 people and leaving tens of thousands seeking medical help for their exposure (see A/HRC/12/26/Add.1).

57. The situation surrounding the export of end-of-life ships for recycling and disposal (shipbreaking) has been examined under the mandate for many years in previous reports and country visits (see A/HRC/12/26). For example, the European Union does not permit toxic ships to be dismantled directly on their beaches by poorly equipped workers; but legal loopholes in the European Union regulation on ship recycling enable this double standard to be perpetuated in some of the world's poorest communities.

58. During a recent country visit to Denmark (see A/HRC/39/48/Add.2, forthcoming), the mandate holder was alerted to cases involving the Danish shipping company Maersk, which in the view of the Special Rapporteur was at one point among the leaders in responsible ship recycling. Several years ago the company had a policy prohibiting shipbreaking on beaches in Asia under abhorrent conditions, which it recently and unfortunately reversed for seemingly unjustified reasons. In a specific case, a United Kingdom-registered radioactive ship, the North Sea Producer, co-owned with the Brazilian company Odebrecht, arrived in Bangladesh via the United Kingdom

[34] See https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=23075 and https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=23923. For replies from the State, see https://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=33521 and https://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=34302.

for dismantling on beaches by poorly trained, equipped and monitored workers, posing a serious risk to the rights of local communities and workers.[35]

59. The issue of urban landfills and the threats posed to life and health continues to also be raised with the mandate holder. During his mission to Sierra Leone, the Special Rapporteur was alarmed by the presence of a large landfill in the heart of Freetown, the most populated city of the country. He witnessed women and children, living inside the dump, eating meat from animals fed with potentially toxic waste; and the informal operations of waste pickers risking health and life to scale walls of waste to scavenge scraps for recycling and recovery. He encouraged the international community to support Sierra Leone to address the problems created by unsustainable global consumption and production patterns.[36]

III. Implementing the Sustainable Development Goals and protecting human rights from toxic exposures

60. Among the Sustainable Development Goals, the issue of exposure to hazardous substances and wastes is present throughout the text, although not as prominently as one would expect given the magnitude of the issue. Hazardous substances and wastes are connected to all 17 of the Goals. For example, people in poverty (Goal 1) often bear the brunt of toxic pollution, and reductions in exposure are required to achieve health targets (Goal 3). Responsible consumption and production depend on reducing the release of chemicals and wastes into air, water and soil with an aim of minimizing their adverse impacts on human health and the environment (Goal 12) and safe work requires the protection of workers from occupational exposures (Goal 8). Goal 2 includes ensuring access to safe food and Goal 6 includes improving water quality by minimizing the release of hazardous chemicals and materials.

61. To achieve the Sustainable Development Goals, in particular to lower the burden of non-communicable diseases, States and businesses must prevent and minimize human exposure to hazardous substances. But beyond the Goals, protection against exposure is incumbent on all States under international human rights law. As described below, two opportunities exist for States to help ensure collective action.

A. Post-2020 framework for toxic chemicals and waste

62. As the rates of disease, disability and death attest, protection of human health from exposure to hazardous substances is a global challenge in urgent need of global action. Central to this is the global control of toxic chemicals and pesticides throughout their life cycle to protect human rights and ensure sustainability.

63. Efforts over the past several years have been largely confined to a set of narrow treaties for specific substances and stages of industrial activity. Over the years, global treaties for "chemicals and wastes" have evolved into the primary global instruments on environmental health in relation to pollution, toxic chemicals and wastes. There is ample room for their continued implementation.

64. However, even if fully implemented, the scope of existing global agreements on toxic substances is grossly inadequate to protect human health from the vast majority of hazardous substances of global concern. Less than 0.1 per cent of industrial and agricultural chemicals with known intrinsic health hazards are regulated through their

[35] See OHCHR communications database at https://spcommreports.ohchr.org/TMsearch/TMDocuments.

[36] See www.ohchr.org/EN/Issues/Environment/ToxicWastes/Pages/Visits.aspx.

life cycle under these existing instruments.[37] Even if the existing conventions were fully implemented, thousands of chemicals of global concern would not fall within their scope.

65. At the World Summit on Sustainable Development in 2002, States recognized the need for a framework at the global level to achieve the sound management of chemicals. The Strategic Approach to International Chemicals Management was established in 2006, intended to fill the protection gap left by the current patchwork of global treaties for chemicals and wastes, which omit thousands of hazardous substances. While some progress was made under the Strategic Approach, there appears unanimous agreement that we are a long way from achieving even the least ambitious definition of sound chemicals management.

66. There is an urgent need for a stronger, more comprehensive global framework to protect human health from a toxic environment to help address the injustices resulting from divergent standards of protection between countries. Solutions exist to eliminate and reduce exposure to toxic substances, but international cooperation and strong global standards are required to ensure that these existing opportunities ensure sustainable development and protect human rights.

67. The mandate of the Strategic Approach is set to expire in 2020. This presents an opportunity to craft a meaningful agreement on environment[al] health, protecting people from exposure to toxic substances found in contaminated water, food and air, as well as consumer products, such as furniture, cosmetics, building materials and toys. This opportunity is essential to the realization of numerous internationally recognized human rights.

68. The Special Rapporteur offers recommendations for the post-2020 framework (future framework) on toxic chemicals and waste that in his view would strengthen the ability of the global community to protect human rights from the effects of toxic exposures.

1. A requirement that States have effective national systems

69. Under the 2006 Dubai Declaration on International Chemicals Management, which forms part of the Strategic Approach, States, businesses and civil society all explicitly recognized that exposure to toxic chemicals and hazardous wastes is a human rights issue. They committed themselves to "respecting human rights and fundamental freedoms, understanding and respecting ecosystem integrity and addressing the gap between the current reality and our ambition to elevate global efforts to achieve the sound management of chemicals."

70. This important statement captures only one aspect of the State's duty under human rights law, namely the duty to respect human rights. However, the duty of States is not only to refrain from interfering with or curtailing the enjoyment of the multitude of human rights that may be affected by toxic chemicals and wastes, but also to actively protect those rights against violation or abuse by third parties, including businesses. This duty to protect human rights is clearly reflected in the Guiding Principles on Business and Human Rights, which were endorsed by the Human Rights Council in 2011.

71. Every State has an existing obligation under international law to have effective systems in place to protect people against toxic exposures. By virtue of their commitments under international treaties to protect the rights to life, health, safe

[37] This represents a very conservative estimate based on existing classifications. Thousands of industrial chemicals have not been thoroughly assessed and classified for the health hazards they may present.

water and food, adequate housing and safe and healthy working conditions, among others, every State has an obligation to have systems that prevent and minimize exposure to toxic substances.

72. For example, over 190 States recognize the right to health in one or more human rights treaties.[38] Under this right, States have an obligation to take steps towards "the prevention and reduction of the population's exposure to harmful substances such as radiation and harmful chemicals ... that directly or indirectly impact upon human health."[39] Furthermore, States are required to adopt positive measures to protect the right to life,[40] including effective measures to prevent and safeguard against hazards that threaten the lives of human beings (see E/CN.4/Sub.2/1994/9 and E/CN.4/Sub.2/1994/9/Corr.1, para. 175). States must take all possible measures to reduce infant mortality and to increase life expectancy, especially in adopting measures to eliminate malnutrition and epidemics.[41] The Convention on the Rights of the Child contains an explicit obligation on States to protect children's heath from pollution and contamination.

73. Under the Strategic Approach, States, businesses, international organizations and civil society participants agreed upon a set of 11 basic elements of a national system for sound chemicals management to prevent and reduce exposure to toxic substances. These basic elements, including legislation, regulation and enforcement, are necessary to respect, protect and fulfil the rights to life and health, among others.

74. However, the policy framework of the Strategic Approach does not contain any obligation on States to have such systems in place, and many States still lack effective systems to protect life and health from toxic exposures. Such a national system is neither optional nor a luxury, but rather a necessary and fundamental duty of the State. The future framework for chemicals and wastes should contain a clear obligation on States to have effective systems in place to protect against toxic exposures.

2. A periodic review mechanism

75. Good governance is essential for environmental health at any level, and essential elements of good governance are the principles of transparency and accountability.[42]

76. The Strategic Approach is rightly criticized for its unsatisfactory reporting and review mechanism of national efforts on sound chemicals management,[43] as "no institution is responsible for exercising strategic oversight and monitoring with respect to chemicals and waste management."[44] Statistics on reporting reveal limited reporting rates of States.[45] These weak reporting and review mechanisms prevent supervisory or oversight roles within the existing structure of the Strategic Approach

[38] International Covenant on Economic, Social and Cultural Rights, Convention on the Rights of the Child and the Constitution of WHO.

[39] Committee on Economic, Social and Cultural Rights, general comment No. 14 (2000).

[40] Human Rights Committee, general comment No. 6 (1982) on the right to life, para. 5.

[41] See Human Rights Committee, general comment No. 6 (1982), para. 5. While the Committee states that it would be "desirable" for States to take all possible measures, the evidence is now much stronger that States must take all possible measures to respect, protect and fulfil.

[42] Tuula Honkonen and Sabaa A. Khan, *Chemicals and Waste Governance Beyond 2020: Exploring Pathways for a Coherent Global Regime* (Nordic Council of Ministers, Copenhagen, 2017), p. 32.

[43] Ibid., pp. 56 and 58.

[44] Ibid., p. 75.

[45] International expert and stakeholders workshop on integrated national implementation of the Sustainable Development Goals and international chemicals and waste agreements, presentation by Tatiana Terekhova, Carolyn Vickers and Brenda Koekkoek on indicators of progress and monitoring, Geneva, 11–13 April 2016.

in achieving the 2020 goal.[46] In part for the lack of accountability, States have been reluctant to commit substantial resources to the Strategic Approach since its inception in 2006.

77. Although sound chemicals management is a target under the Sustainable Development Goals, the review process of the Goals does not address the problem of insufficient oversight and monitoring for the Strategic Approach if it continues beyond 2020, or for any future framework for chemicals and wastes. There are concerns that the architecture for the follow-up and review of the Goals is based on voluntary national reviews and peer-reviewed soft guidance.[47] The process also has inadequate representation and participation of civil society, as government-appointed representatives primarily undertake reviews.[48] Furthermore, States do not benefit from country-specific recommendations, which could provide tailor-made suggestions on Sustainable Development Goal implementation and measures to improve chemicals management in light of national circumstances.[49]

78. Further reinforcing the need for periodic reporting and review mechanisms is that international treaties to protect against exposure to hazardous substances and wastes lack effective reporting, compliance and review mechanisms. Many countries continue to fail to meet their reporting commitments.[50] It was noted recently that up to 60 per cent of States do not meet reporting requirements under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal and the Stockholm Convention on Persistent Organic Pollutants.[51] Neither the Stockholm Convention nor the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade has a compliance mechanism, and the Basel Convention requirements are considered weak.

79. A periodic assessment of efforts by States and non-State actors on chemicals management under a future framework for chemicals and wastes would help to ensure progress towards the sound management of chemicals, and thus to the realization of human rights and to the achievement of the Sustainable Development Goals.[52] The existence of such an accountability mechanism under the future framework may help to mobilize resources from donors. However, an accountability mechanism necessitates the existence of clear obligations on States in the future framework on chemicals and wastes, such as obligations to have effective national systems in place, to submit national action plans and to provide periodic updates to review of national progress towards the sound management of chemicals.

80. In this regard, the Special Rapporteur believes a system similar to the universal periodic review of the Human Rights Council would be of great value to the future

[46] Center for Governance and Sustainability, University of Massachusetts Boston, "Options for effective governance of the beyond-2020 framework for sound management of chemicals and waste: lessons from other regimes", Strategic Approach to International Chemicals Management, second meeting of the intersessional process considering the Strategic Approach and the sound management of chemicals and waste beyond 2020, document SAICM/IP.2/INF.14, annex, p. 6, available at www.saicm.org/Portals/12/documents/meetings/IP2/IP_2_INF_14_Governance_CGS_1.pdf. See also Geneva Academy of International Law and Human Rights, research brief, May 2018, available at www.geneva-academy.ch/joomlatools-files/docman-files/Research%20Brief%20Economic,%20Social%20and%20Cultural%20Rights%20and%20SDGs.pdf.

[47] Ibid.

[48] Center for Governance and Sustainability, SAICM/IP.2/INF.14, annex.

[49] Geneva Academy, research brief, p. 3.

[50] United Nations, *Sustainable Development Goals Report 2017* (New York, 2017).

[51] ChemicalWatch, "International treaties: monitoring compliance" (June 2015), available at https://chemicalwatch.com/24151/international-treaties-monitoring-compliance.

[52] Honkonen and Khan, *Chemicals and Waste Governance Beyond 2020*, p. 32.

framework for chemicals and waste.[53] The universal periodic review is a unique, comprehensive and universal reporting and review process that involves an objective and non-confrontational review of all Member States' performance under several different human rights treaties, with an inclusive multi-stakeholder participatory approach.[54] Both the international regime for toxic substances and the one for human rights are similar in that they are each comprised of several individual international instruments with varying degrees of legal character. The creation of a periodic review under the future framework for chemicals and wastes could create synergies across various United Nations initiatives, including the follow-up and review mechanism of the Sustainable Development Goals.[55]

81. Under a peer review process for chemicals and wastes similar to the universal periodic review, each State would declare actions taken to develop effective systems for toxic chemicals and wastes in meeting their international obligations.[56] States could report on actions taken towards reducing toxic exposure and other States and stakeholders may evaluate these steps and offer recommendations for improvement and follow-up.

82. While the universal periodic review is a State-driven peer review process, participation of various stakeholders, including non-governmental organizations and national human rights institutions, is considered a critical component of the mechanism. The review is based on three categories of documents: a national report by the State concerned, prepared through a broad consultation process at the national level with all relevant stakeholders; a summary of information concerning the State's interactions with treaty bodies and special procedures and contained in other relevant United Nations documents; and information from other stakeholders.[57] The participatory approach of the universal periodic review is highly compatible with the participatory nature of the Strategic Approach.

83. The universal periodic review has helped to strengthen national level coordination, through the involvement of various State entities in national coordination mechanisms for reporting and follow-up.[58] The success of the universal periodic review is shown through concrete results at national levels, where its recommendations feed into national development initiatives,[59] for example through legal reforms and national action or implementation plans.[60] Such coordination between governmental and non-governmental entities in various sectors, including health, trade, agriculture and the environment, is crucial for the protection of health and the environment from toxic substances.

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[53] The idea was suggested by the Center for Governance and Sustainability in March 2018 (see SAICM/IP.2/INF.14, annex) and others. Regarding the application of a peer review under the Convention on Biological Diversity, see Ana Maria Ulloa, Kurt Jax and Sylvia I. Karlsson-Vinkhuyzend, "Enhancing implementation of the Convention on Biological Diversity: a novel peer-review mechanism aims to promote accountability and mutual learning", *Biological Conservation*, vol. 217 (January 2018), pp. 371–376.

[54] See Human Rights Council, universal periodic review, at www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx.

[55] Geneva Academy, research brief.

[56] See Human Rights Council, universal periodic review at www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx.

[57] Human Rights Council resolution 5/1, annex.

[58] Human Rights Council, thirty-seventh session, annual high-level panel discussion on human rights mainstreaming.

[59] Danish Institute for Human Rights, "Human Rights in Follow-up and Review of the 2030 Agenda for Sustainable Development" (Copenhagen, May 2016), p. 34.

[60] Human Rights Council, thirty-seventh session, annual high-level panel discussion on human rights mainstreaming.

84. Key outputs of the universal periodic review process are the conclusions and recommendations, as well as the voluntary commitments of the State concerned, which together contribute to national implementation strategies and provide a basis for improved performance nationally.[61] These recommendations may identify key issues and provide guidance for implementation.[62] They support follow-up because they address critical gaps in implementation emerging in the light of existing human rights obligations, national context[63] and political commitments through previous universal periodic review cycles.[64] As States are required to report on steps taken to implement previous recommendations, the periodic review process promotes progressive development in the areas identified for further action. The future framework for chemicals and waste should accommodate a structure that allows for State-specific recommendations.

85. The universal periodic review system does not explicitly include responsibilities of businesses to respect human rights. However, while implementation of recommendations under the review primarily rests with the State, relevant stakeholders also have a responsibility to implement relevant commitments.[65] This allows for provision for responsibilities of businesses related to the State in question, including those in relation to exposure to toxic chemicals, which could benefit from emphasis in such an accountability mechanism.

3. An updated definition of a chemical of "global concern"

86. Today, chemicals of global concern are those toxic industrial chemicals and hazardous pesticides used, produced and released by global supply chains. States should recognize that a "chemical of global concern" includes the full life cycle of toxic substances used, produced and released by global supply chains, in addition to those that travel significant distances through the environment and migratory species.

87. The production, use and release of toxic substances in global supply chains are resulting in transboundary impacts. Industrial chemicals are often used in international supply chains to manufacture products for export, such as textiles, electronics, furniture and building materials, and hazardous pesticides applied to produce food and other products for consumption in other countries. These industrial chemicals and pesticides themselves are often traded across borders. And they are often the toxic by-products of consumption and production, whether from the extraction of natural resources such as metals, minerals and petroleum, energy generation or waste disposal.

88. However, the vast majority of toxic chemicals with transboundary impacts are excluded from consideration under global measures because they do not travel long distances through environmental media. For example, the criteria for listing a substance under the 2001 Stockholm Convention necessitate evidence of long-range environmental transport through wind, water or migratory species.[66] As a result, perhaps thousands of toxic substances that do not easily degrade, accumulating in people and wildlife, are excluded from the scope of the Convention. Many of these substances pose a serious and unnecessary threat to numerous human rights. A similar,

[61] See Human Rights Council resolution 5/1, annex, paras. 1 and 4. See also Geneva Academy, research brief, p. 3.

[62] OHCHR, "Human rights, the SDGs and the 2030 Agenda for Sustainable Development", available at www.ohchr.org/Documents/HRBodies/UPR/SDGs_2030_Agenda.pdf.

[63] General Assembly resolution 60/251, para. 5 (e) and Human Rights Council resolution 5/1, para. 3.

[64] Human Rights Council, thirty-seventh session, annual high-level panel discussion on human rights mainstreaming.

[65] Human Rights Council resolution 5/1, annex, para. 33.

[66] Stockholm Convention, annex D.

narrow interpretation of what constitutes a substance of global concern was recently articulated in the 2013 Minamata Convention on Mercury.[67]

89. This woefully outdated and narrow perspective of what constitutes a chemical of global concern is enabling the exploitation of workers and local communities, particularly in developing countries and emerging economies that produce much of the products that the world consumes. Complex and opaque global supply chains continue to exploit lower standards of human health and environmental protection, leading to rampant abuses of human rights.

4. A mechanism to phase-out chemicals of global concern

90. Duties and responsibilities to prevent exposure to toxic substances extend beyond borders. The transboundary transfer of toxic production and disposal to countries with lower levels of protection should be considered a form of exploitation if reasonable measures are not taken to protect those at risk.

91. Reasonable measures include global standards for the production, use and disposal of hazardous substances. However, States have intentionally excluded many chemicals of concern from the scope of existing treaties, preventing the development of global standards for thousands of toxic substances that remain in use around the world. This has enabled the transboundary transfer of toxic production and disposal to countries with lower levels of protection, creating costly challenges for States and businesses to trace supply chains to ensure that the rights of workers and communities are not abused by exposure to toxic substances.

92. There are grave concerns that various companies are exploiting workers and particularly children in some countries by exposing them to toxic risks they would not allow for workers back home. Exposing children to toxic substances at work is indefensible. States are obliged to take reasonable measures to prevent and minimize exposure to toxic substances that occur outside their territories and that give rise to infringements of applicable rights owing to the activities of business entities over which they can exercise control and that are reasonably foreseeable.[68] There are numerous toxic substances that should be subject to global bans or restrictions and which, though with well-characterized risks to life, health and development, are still produced and used in global supply chains, despite the availability of safer alternatives. An international instrument should be developed to phase out these chemicals of global concern.

93. Special Rapporteurs have called for the creation of a treaty to prohibit the production and use of certain substances and classes of substances that present serious and in many cases unnecessary risks. For example, the Special Rapporteur on the right to food and this mandate holder, in their report on the impacts of pesticides in food and agricultural production on workers and communities, concluded that the international community must work on a comprehensive, binding treaty to regulate hazardous pesticides throughout their life cycle, taking into account human rights principles (see A/HRC/34/48). They recommended that such an instrument should: (a) aim to remove existing double standards among countries that are particularly detrimental to countries with weaker regulatory systems; (b) generate policies to reduce pesticide use worldwide and develop a framework for the banning and phasing-out of highly hazardous pesticides; (c) promote agroecology; and (d) place strict liability on pesticide producers (ibid). This mandate holder and his predecessor have also urged the global community to develop a global treaty for toxic industrial

[67] Minamata Convention, preamble.

[68] Committee on Economic, Social and Cultural Rights, general comment No. 24 (2017), paras. 30–32.

chemicals (see, for example, A/HRC/21/48, A/HRC/36/41/Add.1, A/HRC/33/41/Add.2 and A/HRC/39/48/Add.2 (forthcoming)).

94. States should seize the opportunity of ongoing discussions to develop a new global instrument by 2030 that would ensure that chemicals of global concern are identified and the process of phase-out or effective restriction has begun.

5. Greater attention to both the gendered impact of exposure to toxic substances and its disproportional impact on children

95. Equality and non-discrimination are fundamental to human rights law.[69] All human beings are equal and by virtue of this and the inherent dignity of each person, all must have equal protection from toxics. States have elevated duties to protect those who are disproportionately affected by toxic exposures under international human rights law.

96. Biological differences between men and women, such as physiological and hormonal differences, create differing susceptibilities to the effects of exposure to toxic chemicals.[70] Women are more likely to store higher levels of environmental pollutants in their tissues than those found in men. During pregnancy, lactation and menopause, women's bodies undergo changes that may increase their susceptibility to health impacts from toxic exposures. Furthermore, owing to differences in social roles, including occupational and household roles, and prevailing harmful gender stereotypes, women and men are exposed differently to toxic chemicals with respect to, among other things, the substances encountered and the degree of exposure.

97. The age at which one is exposed to toxic substances is a critical factor in whether the exposure may result in adverse health impacts. Childhood exposure to toxics is interrelated with the gender dimension of the issue.

98. The future framework for chemicals and wastes should have a special focus on the gendered impact of exposure and on childhood exposure. It may wish to create specific obligations for States to take expedited action on well-characterized threats to life and health regarding children and different genders, without waiting for the development of national, regional or global mechanisms to phase out such threats, such as lead in paint.

B. Business and human rights initiatives

99. For over 23 years, under this mandate grave allegations of human rights violations and abuses due to business activities have been received and responded to. Most of these have transnational links, and most are — unsurprisingly — abuses of the rights of the most vulnerable, including the poor in countries of all levels of development; indigenous peoples; women and children; and migrants and minorities, among others.

100. A common denominator under many emblematic business and human rights cases is toxic pollution and contamination, which have traversed the life cycle of hazardous substances, implicating sectors from extractive industries, to the manufacturing of industrial chemicals, pesticides and consumer products, food and agricultural production, energy generation, transportation and waste disposal, among others. These cases have often illustrated accountability gaps for victims; but, in virtually every case, the tragedy has equally illustrated the gross failure of States and businesses to prevent violations and abuses.

[69] See, for example, the Universal Declaration of Human Rights, art. 2.

[70] United Nations Development Programme, "Chemicals and gender", Gender Mainstreaming Guidance Series (February 2011).

101. Since 2015, all of the reports under this mandate to the Human Rights Council discuss the duties and responsibilities of States and businesses regarding toxic chemicals, pollution and other hazardous substances and wastes. In the same vein, the principles on protecting workers from toxic exposures, which the Special Rapporteur proposed in his 2018 report, are intended for use in various discussions on business and human rights, as well as discussions in other forums.

102. There is an increasing number of efforts to compel businesses to conduct human rights due diligence. Following the endorsement of the Guiding Principles on Business and Human Rights in 2011, France has made human rights due diligence mandatory, while many other countries have adopted national action plans encouraging businesses to carry out human rights due diligence. [71] There are also efforts driven by business associations through their internal processes calling for their members to put in place human rights due diligence, thereby supporting State-led initiatives in this direction.

103. Despite these efforts, many industries have not adequately implemented the Guiding Principles on Business and Human Rights with respect to toxic chemicals and pollution. Some major chemical industry associations and several of their member companies have not implemented such a requirement as part of a commitment to responsible care, despite its outgrowth from a seminal case of a human rights violation, the 1984 tragedy in Bhopal, India. In the course of meeting with businesses during country visits during the past four years, the Special Rapporteur has only personally encountered one chemical company undertaking human rights due diligence.

104. Various industry-wide initiatives across a number of industries and sectors are provided by companies in response to communications about alleged human rights abuses and violations. These are presented as being equivalent to human rights due diligence. Some have elements that have considerable merit and are commendable. However, the majority of these initiatives follow neither the letter of the Guiding Principles on Business and Human Rights nor the spirit of human rights in general. Many do not adequately consider toxic chemical and pollution related risks.

105. In July 2018, an intergovernmental working group established by the Human Rights Council produced a zero-draft of a new treaty to "regulate, in international human rights law, the activities of transnational corporations and other businesses." This is a welcome development from the perspective of the mandate holder, which may help to address some of the impacts of toxic chemicals in global supply chains and the systemic challenges facing victims who struggle to access an effective remedy.

106. Studies suggest that only the smallest fraction of victims of exposure to hazardous substances have access to remedies (see A/HRC/39/48). Major obstacles to accountability and remedy include the unreasonably high burden of proof, the long latency periods for consequences to manifest in some cases and the difficulty in establishing causation; substantial information gaps with respect to the identification of hazards, measurement of exposure and specification of the epidemiological impacts; possible exposure to a multitude of different substances in various occupational settings and over a working lifetime; and the provisions of contractual relationships between suppliers and purchasers which can shift responsibility up or down a supply chain.

107. Far too many countries rely to an unreasonable extent on the prospect of legal liability and reputational damage to prevent and mitigate harm from toxic exposures resulting from business activities. However, a "damage and sue" model of

[71] Working Group on the issue of human rights and transnational corporations and other business enterprises, .nformal note, available at www.ohchr.org/Documents/Issues/Business/Session18/CompilationNAPReferencesToDi%20ligence.pdf.

enforcement is not human rights prevention. Far too often, penalties and fees for violations simply amount to a cost of doing business, not prevention.

108. Solutions exist to make tremendous advancements in reducing the burden of disease through the prevention of exposure, which is required to realize the rights to life and health, among others. States are failing to sufficiently compel businesses to adopt safer alternatives, instead enabling companies to exploit the most vulnerable, such as women and children, particularly those living in poverty, to the cruelty of unnecessary and unjustifiable exposure to toxics and the suffering that it brings.

109. States should compel all businesses in their territory or jurisdiction to actively monitor, identify and prevent human rights violations. Compliance with the law alone should not be viewed as sufficient for the risks businesses create of exposure to hazardous substances. Legislation for toxic chemicals and pollution in general continues to lag behind the pace of innovation and economic expansion, resulting in many of the grave impacts described above. Traceability and transparency are crucial elements of human rights due diligence, and must be ensured throughout supply and value chains. Furthermore, States should ensure that human rights due diligence includes toxic chemical and pollution risks.

IV. Conclusions and recommendations

110. **A broader, more detailed discussion is needed on human rights and exposure to hazardous substances, bringing in all relevant considerations, including ethical and medical perspectives. The Special Rapporteur aims to help to develop a more robust discussion on what is an acceptable level of exposure in the coming years.**

111. **The global community should adopt an international instrument to prevent and minimize toxic exposures. Such an instrument could be under the "post-2020 framework for chemicals management." It should contain:**

(a) **A definition of a substance of global concern based on presence in global supply and value chains;**

(b) **An explicit obligation on every State to have effective systems to prevent and minimize toxic exposures;**

(c) **A universal periodic review or other mechanism of State efforts to prevent and minimize toxic exposures;**

(d) **A mechanism to phase out chemicals of global concern;**

(e) **Obligations for States to take expedited action on well-characterized threats to life and health regarding children and different genders.**

112. **States should support and actively engage in the development of legally binding instruments on businesses at the national, regional and global levels. The Special Rapporteur encourages:**

(a) **States to compel businesses to include toxic chemicals and pollution risks in their human rights due diligence to identify, monitor, prevent and mitigate impacts on human rights;**

(b) **Inclusion of the proposed principles in the Special Rapporteur's 2018 report to the Human Rights Council on workers' rights.**

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Prevention of armed conflict: strengthening the role of mediation in the peaceful settlement of disputes, conflict prevention and resolution

Security Council
Seventy-third year

Letter dated 1 November 2018 from the Permanent Representative of the Russian Federation to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a statement issued by the State Duma of the Federal Assembly of the Russian Federation on the deterioration of the situation in Ukraine (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under agenda item 34 (b), and as a document of the Security Council.

(*Signed*) V. **Nebenzia**

18-19497 (E) 231118 281118

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Annex to the letter dated 1 November 2018 from the Permanent Representative of the Russian Federation to the United Nations addressed to the Secretary-General

State Duma of the Federal Assembly of the Russian Federation

Seventh convocation

Statement issued by the State Duma on the deterioration of the situation in Ukraine

The State Duma of the Federal Assembly of the Russian Federation notes with concern the deterioration of the situation in Ukraine and the growing military threat from the Kiev authorities in the conflict area in Donbass. The centre of Kiev bore witness to yet another neo-Nazi march on 14 October 2018, when Banderites used a sacred holiday for the Orthodox faithful, the Feast of the Protection of the Most Holy Theotokos, to call for reprisals against Russian nationals and the canonical Ukrainian Orthodox Church.

The instigators of the 2014 coup d'état in Ukraine are blatantly interfering in church and religious matters and seeking to establish a so-called united local church in Ukraine. Their aim is to destroy the genuine Orthodox Church, to legitimize Ukrainian schismatics supported by the Ukrainian State and, with their assistance, to "sanctify" the continuation of the war against Russians and Russian speakers in eastern Ukraine. The Ukrainian authorities have, in fact, embarked on a course to transform Ukraine into a base from which to fight against Russia and its people on all possible fronts and in every possible way.

The deputies of the Verkhovna Rada of Ukraine are successively adopting laws against the Russian language, Russian citizens and relations with Russia. In September 2017, a law on education was adopted that almost entirely excludes education in the Russian language and in the languages of all national minorities of Ukraine from secondary schools and higher educational institutions. In January 2018, a law adopted to safeguard the State sovereignty of Ukraine over the temporarily occupied territories of the Donetsk and Luhansk regions declared Russia to be an "aggressor State". In September 2018, President Petro Poroshenko of Ukraine announced that he had torn up the Treaty between the Russian Federation and Ukraine on Friendship, Cooperation and Partnership, in force since 1999, in order to rule out the very suggestion that there could be friendship and cooperation with Russia. Lastly, on 4 October 2018, the deputies of the Verkhovna Rada of Ukraine adopted a draft law to ensure that the Ukrainian language functioned as the State language and to prohibit the Russian language wherever possible. Under the draft law, even discussions about multilingualism in Ukraine are considered an attempt to overthrow the constitutional order.

While sabotaging the Minsk arrangements and claiming to have a rightful place among other European States, Ukraine continues mobilizing its troops, carrying out shootings and killings in Donbass and repeatedly resorting to terrorist acts to achieve its goals. Ukraine has become a terrorist State and the leaders of today's Ukraine have the blood of Alexander Zakharchenko and many other sons and daughters of Donbass on their hands.

These shameful acts have been supported by Western sponsors and masterminds aligned with Ukraine. The State Duma draws attention to the actions of the United States of America and other countries of the North Atlantic Treaty Organization which, in supplying Ukraine with weapons and encouraging its anti-Russian policy,

are directly driving the Ukrainian authorities towards aggressive actions against their own people and towards inter-ethnic and sectarian conflict.

The State Duma is certain that another attempted large-scale military offensive by Ukraine in Donbass, complete with new murders and terrorists acts against its people, will meet with an appropriate response and inevitably lead to disastrous consequences. The State Duma hereby declares that the leadership of Ukraine today will bear the historical responsibility for pursuing policies leading to the severance of ties between Russia and Ukraine.

It is not too late to change course.

V. V. **Volodin**
Chair of the State Duma of the Federal Assembly
of the Russian Federation

Moscow

18 October 2018

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Seventy-third session
Agenda item 141
Human resources management

Mobility

Report of the Advisory Committee on Administrative and Budgetary Questions

1. The Advisory Committee on Administrative and Budgetary Questions has considered the reports of the Secretary-General on mobility (A/72/767 and A/73/372/Add.2). During its consideration of the reports, the Committee met with representatives of the Secretary-General, who provided additional information and clarification, concluding with written responses received on 18 October 2018.

2. The Advisory Committee recalls that the General Assembly, in its resolution 68/265, approved the refined managed mobility framework and requested the Secretary-General to submit to the Assembly annual reports on mobility until its seventy-second session and a five-year comprehensive review of the mobility framework at its seventy-third session. Document A/72/767 is the fourth annual progress report of the Secretary-General and was submitted to the Assembly at its seventy-second session, on 27 February 2018. The report of the Secretary-General (A/73/372/Add.2) contains information on the comprehensive review requested by the Assembly for its seventy-third session and was submitted on 10 September 2018. The Committee notes that the fourth annual progress report, submitted for the seventy-second session, is being taken up concurrently with the report submitted for the seventy-third session.

Background

3. In its resolution 68/265, the General Assembly authorized the Secretary-General to implement the refined mobility framework with a view to commencing mobility for one job network in 2016 and one in 2017, followed by two job networks each year thereafter.[1] The Secretary-General indicates that subsequently the first job network, the Political, Peace and Humanitarian Network (POLNET), was launched in 2016 and the second job network, the Information and Telecommunication Technology Network (ITECNET), was implemented in 2017 (see A/72/767, para. 4). The new staff selection and managed mobility system was operationalized on 1 January 2016 through the promulgation of three new Secretary-General's bulletins and a related

[1] To facilitate functional mobility, the previous eight job networks were reconfigured into nine in 2015 before the launch of the mobility framework (see A/70/254, para. 8 and annex I).

new administrative instruction (ST/SGB/2016/2/Rev.1, ST/SGB/2016/3/Rev.1, ST/SGB/2016/4/Rev.1 and ST/AI/2016/1 and ST/AI/2016/1/Amend.1) (see A/71/557, para. 77).

4. In December 2017, the Secretary-General decided to pause the implementation of the mobility and career development framework, which, according to him, aimed to ensure that the comprehensive review could be undertaken and a recommendation on next steps developed. Consequently, no additional job networks were operationalized in 2018. The Secretary-General indicates that, given that only two job networks were operationalized during the implementation of the framework in 2016 and 2017, the comprehensive review and its findings are limited to the two networks over a two-year period (see A/73/372/Add.2, paras. 2, 3 and 6–8, and ST/SGB/2016/3/Rev.1). **The Advisory Committee notes that as a result of the Secretary-General's decision to pause the implementation of the mobility framework in December 2017, the implementation of the mobility framework covered only two networks over two years (see para. 3 above).**

Implementation update

5. In his fourth annual progress report, the Secretary-General provides an update on the implementation of the mobility framework (the first network, POLNET, in 2016 and 2017 (see A/72/767, sect. II) and the second network, ITECNET, in 2017 (ibid., sect. III)) (see para. 3 above), with information on progress achieved under the two parts of the framework: (a) managed mobility (an internal process for the lateral movement of staff members); and (b) filling of vacancies (the advertisement of existing and anticipated vacant positions, open to all candidates (external and internal)). The report of the Secretary-General also contains information on mobility trends (sect. IV), direct and indirect costs of mobility (sect. V), external recruitment (sect. VI) and five key performance indicators established to assess the achievement of the objectives of the framework (sect. VII).

6. In its resolution 68/265, the General Assembly decided that the number of geographic moves for the job networks in 2016 and 2017 shall be no greater than the average number of geographic moves in those networks in 2014 and 2015. Information on the number of geographic moves for the period from 2012 to 2016 is shown in figures IV and V of the report of the Secretary-General (A/72/767). However, the Secretary-General indicates that the number of geographic moves for 2017 cannot yet be confirmed, since a geographic move is only confirmed after the staff member has remained in the new duty station for a full year (ibid., paras. 26 and 27). **The Advisory Committee notes that, except for 2016, the information contained in figures IV and V of the report of the Secretary-General relates to years prior to the implementation of the mobility framework. The Committee further notes that of the total number of 374 geographic moves reported for 2016 for POLNET in figure IV,[2] only up to 33 such moves were actually taken under managed mobility (lateral moves), the first part of the framework (see para. 5 above and A/72/767, para. 10).**[3]

7. A comparison of average direct costs per person per move from 2011 to 2015 is contained in table 16 of the report of the Secretary-General (A/72/767). The Advisory Committee was informed, upon enquiry, that this cost data fell outside the time frame for the implementation of the mobility framework. With regard to direct costs

[2] Includes moves for placements from job openings advertised in 2015 before the implementation of the mobility framework.

[3] It remains to be confirmed whether the 33 moves as a result of the 2016 POLNET exercises were initiated in 2016 and lasted more than a year, and would therefore be counted in the annual figures for geographic moves (as those reflected in figure IV).

associated with geographic moves undertaken in 2016, the Secretary-General indicates that, given that the number of moves undertaken could not be confirmed until the end of 2017, an analysis of the related actual costs could not be completed prior to the publication of his report on 27 February 2018. The estimated direct costs for 2016, as shown in table 17 of the report of the Secretary-General, reflect the number of moves in 2016 multiplied by the average costs incurred in 2015 (ibid., para. 38).[4] **The Committee notes that the report of the Secretary-General does not contain information on actual direct and indirect costs arising from the implementation of the mobility framework during 2016 and 2017. The Committee therefore recommends that the General Assembly request the Secretary-General to include such information, with a breakdown of the costs incurred for each of the two parts of the framework (managed mobility (lateral moves) and filling of vacancies), in his report on a proposal for a new mobility framework to the Assembly at its seventy-fourth session (see para. 11 below).**

8. Information on external recruitment undertaken through the filling of vacancies, the second part of the framework, is provided in paragraphs 42–44 and table 18 of the report of the Secretary-General (A/72/767; see also para. 5 above). The average percentage of external appointments to all job opportunities between 2013 and 2017 stood at 30 per cent. The Advisory Committee has made comments and recommendations on matters relating to external recruitment in its most recent report on human resources management (A/73/497).

Comprehensive review

9. Information on the comprehensive review of the mobility framework is provided in section II of the report of the Secretary-General (A/73/372/Add.2), including summary information on the implementation of the framework, the methodology applied in the conduct of the review, key findings identified from the review and lessons learned from the implementation of the mobility framework. The Advisory Committee was informed, upon enquiry, that the comprehensive review, conducted between December 2017 and July 2018, has been completed.

10. The Secretary-General indicates that seven key findings have been identified from the review, as follows: mobility remains important for the Organization; one size does not fit all parts of the Secretariat; opportunities for different types of movement are uneven; there were difficulties with matching people and positions; an internal mobility exercise is incompatible with the requirement to advertise all posts externally; burden-sharing was limited; and parts of the process were cumbersome (ibid., paras. 33–54). Ten lessons learned from the implementation of the mobility framework are elaborated in paragraphs 56–65 of the report of the Secretary-General.

11. The Secretary-General further indicates that he will propose a new comprehensive mobility framework for the Secretariat, drawing on the findings of and lessons learned from the comprehensive review. The new mobility system, which will be a core element of the Secretariat-wide approach to talent management, will be fully integrated with career development. It will take into consideration experience elsewhere in the United Nations system and with other partners. The details of this new approach to mobility will be developed in consultation with management and staff during 2019 and will be presented to the General Assembly for consideration at its seventy-fourth session (ibid., paras. 66 and 68).

[4] The expenditures for 2015, reflected in table 15 of the report of the Secretary-General, do not include all costs for the year, since some staff members who moved in 2015 were not paid the mobility allowance until after the year ended and it was not possible to identify all of the one-time costs for the purposes of the report for all entities (see A/72/767, para. 34).

12. The Advisory Committee recalls that it had made comments and recommendations on mobility-related matters prior to the approval of the refined mobility framework by the General Assembly at its sixty-eighth session (see A/67/545, sect. III, and A/68/601, sects. III–V). **The Committee trusts that in preparing his proposal for a new mobility framework, the Secretary-General will be fully guided by the relevant provisions of resolutions of the General Assembly, and will also take into account lessons learned from the implementation of the mobility framework during 2016 and 2017.**

Conclusion

13. Actions required of the General Assembly are set out in the reports of the Secretary-General (see A/72/767, para. 53, and A/73/372/Add.2, para. 69). **Subject to its comments and recommendations in the paragraphs above, the Advisory Committee recommends that the General Assembly take note of the reports of the Secretary-General.**